

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

W. Jeffrey Young, Circuit Court Judge

RECEIVED

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SC Court of Appeals

Appellate Case No. 2014-002711

J. S. Sanders Company LLC Respondent,

v.

Steven P. Levesque Appellant.

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA
COUNTY CHARLESTON

J. S. SANDERS COMPANY, LLC,

Plaintiff,

v.

STEVEN P. LEVESQUE,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 12-CF-10-3724

ORDER OF JUDGMENT

FILED
2014 MAR -5 PM 3:26
JULIE J. ADAMS, CLERK
BY

THIS MATTER came to be heard by the Court on January 31, 2014 for a Non-Jury trial. Plaintiff seeks Judgment against Defendant in accordance with a Purchase Money Promissory Note in the original principal sum of Two Hundred Fifteen Thousand and No/100 (\$215,000.00) Dollars, dated March 10, 2005, executed by Defendant in favor of Plaintiff ("Note"). Defendant acknowledges no monies have been paid by Defendant to Plaintiff per the Note, however, Defendant asserts Plaintiff is precluded from securing a personal judgment against Defendant due to a non-recourse provision in the Purchase Money Mortgage executed by Defendant in favor of Plaintiff simultaneously with the Note ("Mortgage").

Present at the trial was John S. Sanders, III and his mother, Nell S. Sanders, both members of Plaintiff, Plaintiff's attorney, John J. Dodds, III, and a witness, Randall J. Drew, Esquire. Also present was the Defendant, Steven P. Levesque, and his attorney, Mark S. Sharpe. Prior to hearing any testimony, with the consent of counsel for the parties, respectively, the Court received into evidence Plaintiff's Exhibits One (1) through Ten (10) and Defendant's Exhibits One (1) through Three (3).

After considering the pleadings filed herein, the testimony presented at the trial and the Exhibits received into evidence on behalf of both parties, the Court finds and concludes as follows:

ONE: This Court has jurisdiction over the subject matter of the action and the parties hereto.



TWO: Plaintiff is a South Carolina limited liability company organized on December 28, 2004. John S. Sanders, Jr., who died July 2, 2008, his wife, Nell S. Sanders, and his son, John S. Sanders, III, were all members of Plaintiff with John S. Sanders, Jr. and John S. Sanders, III serving as managing members. Following his father's death in 2008, John S. Sanders, III served as sole managing member of Plaintiff, while Nell S. Sanders remained a member.

THREE: Defendant is a resident of Charleston County, South Carolina, has attained a college education, and has in the past purchased, and financed the purchase of, real estate.

FOUR: On December 18, 2004, Nell Sanders, as Seller, and Defendant, as Buyer, entered into a written Agreement To Buy and Sell Real Estate relative to Defendant's purchase of an unimproved lot in Awendaw, South Carolina ("lot") for the sum of Two Hundred Fifty Thousand (\$250,000.00) Dollars ("Agreement"). Pursuant to paragraph 13 of the Agreement entitled "Special Stipulations/Contingencies", the parties agreed Buyer would pay Thirty-Five Thousand and No/100 (\$35,000.00) Dollars down and Seller would finance the balance of the purchase price at six (6%) percent interest compounded annually which would accrue and be added to principal over a period of seven (7) years. Other relevant provisions in the Agreement include paragraph 26 entitled "Entire Binding Agreement" which reads, in part,

"This written instrument, . . . , expresses the entire agreement and all promises, covenants, and warranties between the Buyer and Seller. It can be changed only by a subsequently written instrument signed by both parties. Both Buyer and Seller hereby acknowledge that they have not received or relied upon any statements or representations by either Broker, or their agents which are not expressly stipulated herein."

The Agreement contains no provisions describing the proposed loan from Seller to Buyer as

"non-recourse".

FIVE: On December 28, 2004, Nell S. Sanders conveyed the lot to Plaintiff. On March 4, 2005, Plaintiff conveyed the lot to Defendant for the stated sum of Two Hundred Fifty Thousand and No/100 (\$250,000.00) Dollars. The deed of conveyance to Defendant was not immediately recorded, but rather delivered to Defendant's attorneys in anticipation of closing. On March 10, 2005, a closing was held at the law offices of Defendant's attorneys, Warren & Sinkler, LLC. At closing, Defendant executed the Note and Mortgage granting Plaintiff a purchase money lien against the lot. The deed of conveyance to Defendant and Mortgage were both recorded by Defendant's attorneys on March 11, 2005, at 11:55 a.m. in the RMC Office for Charleston County.

SIX: The relevant provisions of the Note are as follows:

Borrower promises to pay to the order of J.S. Sanders Company, LLC the principal sum of Two Hundred Fifteen Thousand (\$215,000.00) Dollars with interest at the rate of rates set forth below.

The obligation of Borrower to make the payments of principal and interest hereunder shall be absolute and unconditional, and Borrower hereby irrevocably waives any rights of set-off, recoupment, or reduction as to any amounts due hereunder.

The Note shall bear interest before default at the fixed rate of 6.00% per annum compounded annually.

All principal and interest shall be due on the earlier to occur of (a) March 10, 2012, or (b) the payment in full of a note of even date herewith in the original principal amount of Four Hundred Fifty Thousand and No/100 (\$450,000.00) Dollars (the "Maturity Date"), which shall be the final maturity date on the Note.

Borrower hereby (b) waives any right to require Lender to retain any collateral securing this Note, or any other liabilities; (c) waives any right to require Lender to resort to exercising any remedies she may have against any other party or collateral securing this Note; (e) agrees that Lender may exchange, substitute, swap, release, reduce, or otherwise permit the disposal of any collateral securing this Note.

Borrower understands and agrees that Lender may institute suit to collect



amounts outstanding under this Note without seeking recourse to any of the collateral, and the failure of Lender to pursue the collateral shall in no way diminish or affect Borrower's liability hereunder.

Borrower agrees to pay all costs and expenses of collection (including reasonable attorneys' fees) when incurred by Lender, and all costs and expenses (including reasonable attorneys' fees) incurred by Lender in exercising or preserving any rights or remedies hereunder or in connection with the enforcement of this Note.

WAIVER OF APPRAISAL RIGHTS

The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty (30) days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. Pursuant to Section 29-3-680 of the Code of Laws of South Carolina, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY. The Borrower specifically acknowledges and affirms his waiver of appraisal rights as evidenced by his signature below.

SEVEN:

The relevant provisions of the Mortgage are as follows:

AND the Mortgagor does expressly covenant and agree:

1. To pay the Note in accordance with its terms promptly as the principal and interest thereon shall become due.
8. The term event of default, wherever used in this Mortgage, shall mean any one or more of the following events:
 - (a) Failure by the Mortgagor to pay as and when due and payable, including by acceleration, any installment of principal and/or interest
 - (b) Failure by the Mortgagor to duly observe any other covenant, condition or agreement of the Note or of this Mortgage
9. If an event of default shall occur and be continuing after the expiration of any applicable notice period, if no cure has been effected, all of the indebtedness secured hereby shall become and be immediately due and payable at the option

of the Mortgagee, without further note or demand, which are hereby expressly waived, and the Mortgagee may proceed to foreclose this Mortgage or otherwise pursue any right or remedy herein or by law provided.

13. This instrument is to be governed by and construed in accordance with the laws of the State of South Carolina and each of the remedies provided for herein shall be cumulative so that the right of the Mortgagee to exercise one or more of such remedies shall not be construed to limit or preclude the right of the Mortgagee to exercise any other remedy or remedies set forth herein.
15. Mortgagor and Mortgagee agree that Mortgagee's recourse of payment of Mortgagor's obligations under the Note secured by this Purchase Money Mortgage are limited to the real property mortgaged under this Mortgage. Under no circumstance shall the Mortgagee or any other person or entity have any other recourse to or claim for payment of such obligations against the Mortgagor except with respect to fraud or willful misconduct.
17. WAIVER OF APPRAISAL RIGHTS. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty (30) days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. Pursuant to Section 29-3-680 of the Code of Laws of South Carolina, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY. The Mortgagor specifically acknowledges and affirms his waiver of appraisal rights as evidenced by his signature below.

EIGHT: Since the Note and Mortgage executed by Defendant in favor of Plaintiff were made at the same time, they are construed together. Rhodus v. Goins, 125 S.E. 645 (SC 1924). See also Harmon v. Bank of Danville, 339 S.E.2d 150 (Ct. App. 1985). However, where there is irreconcilable conflict between the terms of a note and a mortgage, terms of the note ordinarily control. Rhodus v. Goins, supra at 646; and Harmon v. Bank of Danville, supra at 155. In Rhodus v. Goins, supra, the Supreme Court held "And in respect to the terms of the debt or interest, or the time for its payment, if the note and mortgage contain conflicting provisions, the note will govern, as being the principal obligation".

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Similarly, in Harmon v. Bank of Danville, supra, the Court of Appeals found a conflict between the terms of a demand note which provides for the payment of interest "until paid" and the terms of a mortgage which provides for payment "until maturity". Citing Rhodus v. Goins, the Court of Appeals first noted that under contract rules of construction, where there is an irreconcilable conflict between the terms of the note and mortgage, the former ordinarily controls. The Court of Appeals then concluded that the terms of the note controlled. In NationsBank v. Scott Farm, 465 S.E. 2d 98 (Ct. App. 1995), a case with similar facts to the case at bar, the Court of Appeals, after finding an irreconcilable difference between a note and the mortgage given to secure the note, held that the terms of the note control, and the clear language of the note refutes Scott Farm's argument that the note is part of a non-recourse obligation. "Even if the initial transaction between Boyle and Scott Farm incorporated the waiver of deficiency judgment, the note explicitly rejects the waiver. The note provides: [Upon] default, . . . said principal sum . . . shall become at once due and payable. The undersigned [Scott Farms] agrees . . . to remain and continue bound for payment of principal and interest . . . notwithstanding any . . . change or changes by way of release or surrender of any collateral held as security this Note." NationsBank v. Scott Farms, supra at 100. (See also Burch v. Ashburn, 368 S.E.2d 82 (Ct. App. 1988) (a separate agreement may not be used to contradict the unambiguous terms of the note).

NINE: Although the terms of the Note and Mortgage are not ambiguous, there exists a clear and irreconcilable conflict between the terms of the Note and Mortgage. Whereas paragraph 15 of the Mortgage restricts Plaintiff's recourse of payment of Defendant's obligations under the Note to recovery of the lot, the Note clearly and unambiguously provides that the obligation of Defendant to make the payments of principal and interest shall be absolute and unconditional, and Defendant irrevocably waives any rights of setoff, recoupment, or reduction as to any monies due under the Note; Defendant waives any right to require Plaintiff to resort to exercising any remedies against any collateral securing the Note;

WJH

and Defendant understands and agrees that Plaintiff may institute suit to collect amounts outstanding under this Note without recourse to any of the collateral and the failure of Plaintiff to pursue the collateral shall in no way diminish or affect Defendant's liability under the Note.

TEN: Since there is an irreconcilable difference between the Note and Mortgage given to secure the Note, the terms of the Note prevail. Rhodus v. Goins, supra; Harmon v. Bank of Danville, supra; NationsBank v. Scott Farm, supra; and 55 Am. Jur. 2d Mortgages § 176 (1971). The clear language of the Note allows Plaintiff to pursue a personal Judgment against Defendant and refutes Defendant's argument that Plaintiff's only recourse is to recover the lot.

ELEVEN: The amount due Plaintiff from Defendant in accordance with the Note through January 31, 2014 is Three Hundred Eighty-One Thousand Five Hundred Thirty-Six and 87/100 (\$381,536.87) Dollars. The per diem interest accruing in accordance with the Note after January 31, 2014 is Fifty-Nine and 51/100 (\$59.51) Dollars.

TWELVE: In accordance with the terms of the Note, Plaintiff is entitled to recover from Defendant all costs and expenses of collection (including reasonable attorney fees) in connection with the enforcement of the Note. In determining an award of attorney fees, the Court must examine the nature, extent, and difficulty of the services, the time and labor devoted to the case, professional standing of counsel, contingency of compensation, customary fee charged in locality, and the beneficial results obtained. Blumberg v. Nealco, Inc., 427 S.E. 2d 659 (1993).

THIRTEEN: Plaintiff's counsel introduced into evidence (Plaintiff's Exhibit 10) his Affidavit of Attorney Fees indicating he had expended 31.95 hours prior to trial and had incurred \$435.95 in costs. Trial lasted three (3) hours and Plaintiff's counsel (as well as Defendant's counsel) was requested to submit a proposed Order to the Court. It is apparent from the Court's file that both counsel have vigorously represented the interests of their respective clients and that this case has been hotly contested

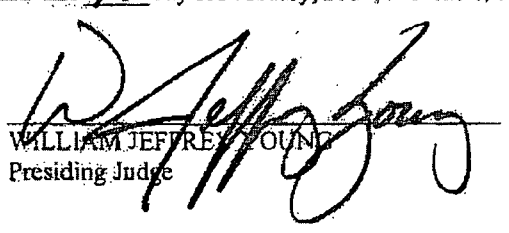
for over eighteen (18) months. The Court further believes that the issues in this case are difficult and extensive. Plaintiff's counsel has been practicing law for over thirty (30) years and enjoys a good reputation among members of the Charleston County Bar. The hourly rate of \$185.00 charged by Plaintiff's counsel is certainly reasonable and consistent with the fees charged by other attorneys providing similar services in Charleston County. Plaintiff's counsel has achieved beneficial results on behalf of this client. In light of the foregoing, Plaintiff's counsel is awarded attorney fees in the amount of \$6,928.25, together with costs in the amount of \$435.95.

FOURTEEN: Plaintiff is entitled to Judgment against Defendant in the amount of Three Hundred Eighty-One Thousand Five Hundred Thirty-Six and 87/100 (\$381,536.87) Dollars through January 31, 2014, plus per diem interest of Fifty-Nine and 51/100 (\$59.51) Dollars of and from February 1, 2014 to the date of Judgment, together with attorney fees and costs in the total amount of Seven Thousand Three Hundred Sixty-Four and 20/100 (\$7,364.20) Dollars.

NOW, THEREFORE, it is hereby

ORDERED, ADJUDGED and DECREED that Plaintiff shall have, and is hereby, awarded Judgment against Defendant in the amount of Three Hundred Eighty-One Thousand Five Hundred Thirty-Six and 87/100 (\$381,536.87) Dollars through January 31, 2014, plus per diem interest of Fifty-Nine and 51/100 (\$59.51) Dollars of and from February 1, 2014 to the date of Judgment, together with attorney fees and costs in the total amount of Seven Thousand Three Hundred Sixty-Four and 20/100 (\$7,364.20) Dollars.

AND IT IS SO ORDERED this 28 day of February, 2014, at Sumter, South Carolina.


WILLIAM JEFFREY YOUNG
Presiding Judge

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 12 CP-10-3724

J. S. SANDERS COMPANY, LLC

STEVEN P. LEVESQUE,

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: John J. Dodds, III

Attorney for : ☒ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code

Date

SCRPC Form 42 (12/2011)

Page 1

For Clerk of Court Office Use Only

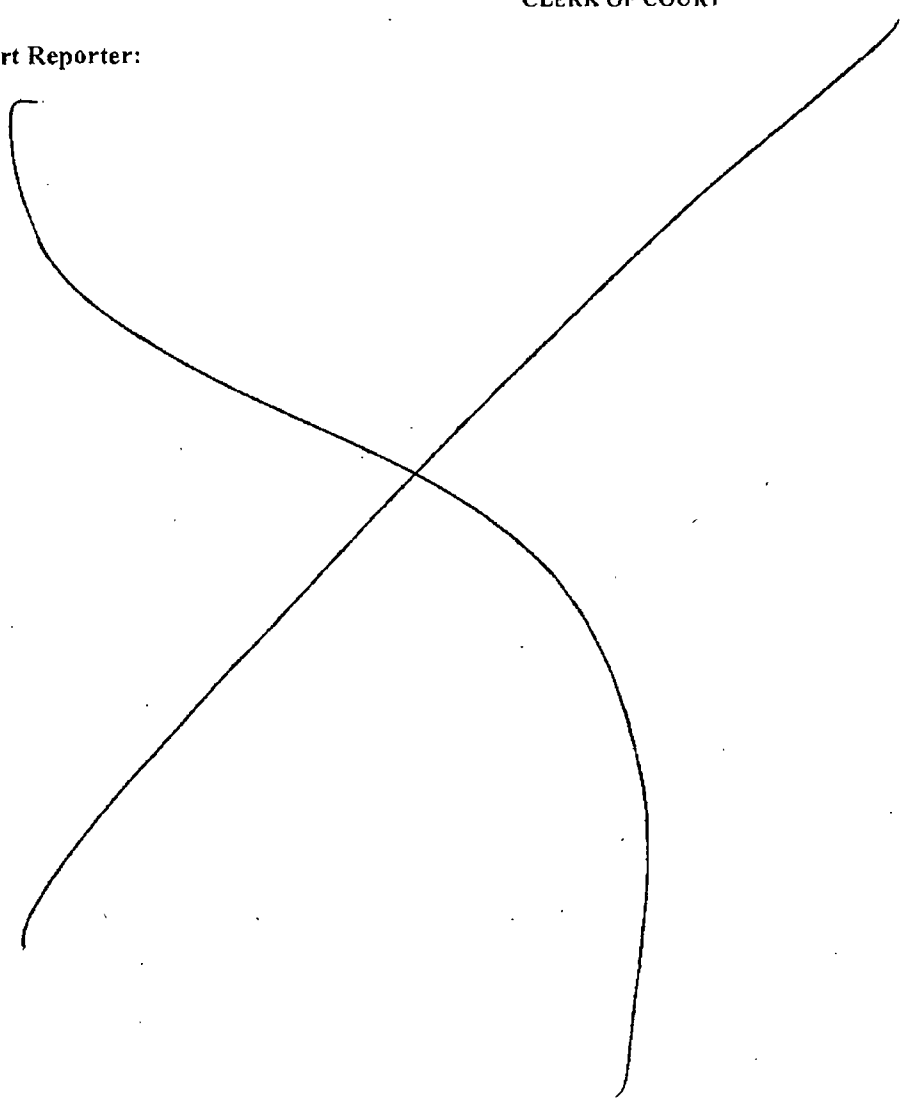
This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or in parties (when appearing pro se) as follows:

John J. Dodds, III
858 Lowcountry Blvd., Suite 101
Mt. Pleasant, SC 29464
ATTORNEY(S) FOR THE PLAINTIFF(S)

Mark S. Sharpe
134 Meeting Street, Suite 200
Charleston, SC 29401
ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:



STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

J. S. SANDERS COMPANY, LLC,)

 X Plaintiff,)

vs.)

STEVEN P. LEVESQUE,)

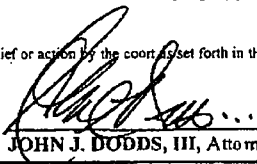
_____ Defendant.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO 12 - CP - 10 - 3724

**MOTION AND ORDER INFORMATION
FORM AND COVER SHEET**

check above indicating submitting party

<u>Name, SC Bar no. and address of Plaintiff's attorney</u> John J. Dodds, III 858 Lowcountry Blvd., Suite 101 Mt. Pleasant, SC 29464 telephone: (843) 881-6530 fax: (843) 881-5433 e-mail: john@cisadodds.com other:		<u>Name, SC Bar no. and address of Defendant's attorney</u> Mark S. Sharpe 171 Church Street, Suite 340 Charleston, SC 29401 telephone: fax: e-mail: other:
☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II AND III) ☒ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)		
SECTION I: Hearing Information Nature of Motion: Estimated Time Needed: Court Reporter <u> </u> Yes <u> </u> No		
SECTION II: Motion Type ☐ Written motion attached ☐ Form Motion - I hereby move for relief or action by the court as set forth in the attached proposed order.  JOHN J. DODDS, III, Attorney for the Plaintiff November 17, 2014 Date submitted:		
SECTION III: Motion Fee ☐ PAID - AMOUNT: ☒ EXEMPT: ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC) ☒ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: Other:		
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other:		JUDGE CODE: _____ DATE: _____, 20____
CLERK'S VERIFICATION DATE FILED Collected by: _____ (print name) ☐ Motion Fee Collected: \$ _____ ☐ Contested - Amount due: \$ _____		

SCCA/233 (11/03)

STATE OF SOUTH CAROLINA)
)
COUNTY CHARLESTON)

J. S. SANDERS COMPANY, LLC,)
)
Plaintiff,)
v.)
STEVEN P. LEVESQUE,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 12-CP-10-3724

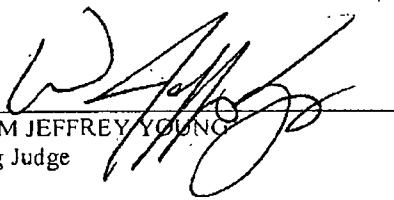
ORDER DENYING DEFENDANT'S
MOTION TO ALTER OR AMEND
JUDGMENT AND FOR
RECONSIDERATION

FILED
2014 NOV 17 PM 5:16
J. ARMSTRONG
CLERK OF COURT

THIS MATTER came to be heard by the Court on August 7, 2014 pursuant to Defendant's Motion to Alter or Amend Judgment pursuant to Rule 59(e) and 52(b) and for Reconsideration ("Motion"). Present at the hearing was Mark S. Sharpe, Esquire, attorney for Defendant, and John J. Dodds, III, attorney for Plaintiff.

After thoroughly reviewing the Motion and considering the arguments of counsel for the parties, respectively, the Motion is respectfully denied.

AND IT IS SO ORDERED!



WILLIAM JEFFREY YOUNG
Presiding Judge

November 10, 2014
Sumter, SC

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

J.S. SANDERS COMPANY, LLC,

Plaintiff,

vs.

STEVEN P. LEVESQUE,

Defendant.

IN THE COURT OF COMMON PLEAS
CASE NUMBER 12-CP-10-3724

DEFENDANT'S MOTION TO
ALTER OR AMEND JUDGMENT
PURSUANT TO RULE 59(e) AND
52(B) AND FOR
RECONSIDERATION

FILED
2014 MAR 11
JULIE
CLERK
3:29

Plaintiff moves the Court for an order altering or amending the Order of this Court dated February 28, 2014, filed on March 6, 2014, which Order was received by counsel to Defendant on March 11, 2014. This Motion is made pursuant to S.C.R.C.P. 59(e) and 52(b).

Plaintiff requests that the Court alter or amend its Order as follows:

1. Even though the promissory note at issue is non-recourse, there are customary, contractual terms contained in the promissory note which are necessary to determine the amount due under the note, the entitlement of Plaintiff to judgment, and the entitlement of Plaintiff to declare the outstanding balance on the promissory note immediately due and payable on default. These provisions are separate and distinct from non-recourse provisions in a note and mortgage, and do not affect those non-recourse provisions. In other words, there is a difference between provisions addressing the amount and entitlement of Plaintiff to judgment in the first instance, and limitations on the enforcement of that judgment; even non-recourse debt is subject to defenses and may have conditions precedent to enforcement. *See, e.g., 225 Assocs. v. Conn. Hous. Fin. Auth.*, 65 Conn. app. 112, 782 A.2d 189 (Ct. App. Court. 2001) (holding a non-recourse note to be subject to setoff). These provisions do not, however, change the non-recourse nature of the debt.

Defendant respectfully submits that the Court overlooked this distinction in finding that customary, contractual provisions in the promissory note conflicted with the non-recourse provision in the mortgage. As a result, Defendant submits that Court failed to harmonize the terms of the note and mortgage and erred in finding that there is an irreconcilable conflict between the promissory note and the mortgage as to the question of recourse.

In finding that the terms of the promissory note conflict with the non-recourse provisions of the mortgage, the Court first relied on the fact that the note says that the obligations of Defendant thereunder are "absolute and unconditional." Order, p. 6. This language, given its plain and ordinary meaning, simply provides that there are no conditions precedent to Defendant's obligations (such as performance by Plaintiff of other acts or contracts); this provision does not address the issue of recourse at all.

The Court also relied on language in the promissory note that Defendant waives any right to require Plaintiff to first proceed against any collateral, and that Plaintiff may sue on the note without pursuing the collateral Order, pp. 6-7. This language is simply another way of stating that there are no conditions precedent to Plaintiff's entitlement to judgment (with the condition in this instance being first proceeding against the collateral). The question of recourse, on the other hand, simply goes to the remedies that Plaintiff as the holder of the note may invoke in enforcing the judgment. Whether there is some condition to Plaintiff's entitlement to that judgment in the first instance (whether or not that judgment is recourse or non-recourse) is a separate question from what remedies Plaintiff has in enforcing the judgment.

The Court also relied on the provision of the note that Plaintiff's failure to pursue the collateral will not affect Defendant's liability under the Note. This provision is simply intended to address established rule that a maker of a promissory note is discharged to the extent the payee of the note releases or impairs collateral without authorization of the maker. See, e.g., *Costas v. First Federal Sav. & Loan Assoc.*, 283 S.C. 94, 321 S.E.2d 51 (1984). Defendant requests that the Court amend its Order to find that the provisions in the promissory note just cited are not inconsistent with the non-recourse language in the mortgage, and that there is not an irreconcilable conflict between the note and the mortgage.

2. The Court relied in its Order on the fact that the Agreement to Buy and Sell Real Estate had no provision stating that the seller financing would be non-recourse, and that the Agreement had an "integration clause," stating that the Agreement was the entire agreement between the parties. Order, p. 2-3. Although it is true that the Agreement did not provide that the seller financing would be non-recourse, it is equally true that the Agreement did not provide that the seller financing would be with recourse. Further, the Court failed to address Defendant's argument that the terms of the promissory note and the mortgage, as subsequently executed documents, should control over the terms of the earlier executed Agreement. Defendant requests that the Court amend its Order to address this issue and to find that Agreement, to the extent its provisions are inconsistent with non-recourse financing, was amended by the later executed note and mortgage.

3. The Court in relying on the Agreement to Buy and Sell also overlooked the South Carolina rule that, in a real estate transaction, all terms of prior agreements are merged into the documents executed and delivered at closing (in this case the Note and Mortgage), and that any terms of prior agreements do not survive closing. Defendant requests that the Court amend its Order to address this issue and to find that the terms of the Agreement merged into and did not survive the execution of the note and mortgage at the closing.

4. In finding that the promissory note executed by Defendant was not entitled to the benefit of the non-recourse provision, this Court relied on *NationsBank v. Scott Farm*, 320 S.C. 299, 465 S.E.2d 98 (Ct. App. 1995), which considered a similar issue. The Court of Appeals in *Scott Farm* held that the promissory note at issue there was not subject to the non-recourse provision of a mortgage. That promissory note, however, was not delivered simultaneously with the mortgage as part of the same transaction. Rather, the note was executed in 1990—twelve years after the mortgage containing the non-recourse language. In addition, the promissory note did not state that it was subject to the terms of the mortgage, or even that it was a renewal of the promissory note originally executed in connection with the mortgage. *Id.* at 303, 465 S.E.2d at 100. Thus, the holding of the Court of Appeals is based on its finding that the promissory note sued

upon there simply had no connection to the original note signed twelve years earlier, and therefore was a factual matter not subject to the terms of the mortgage.

The case now before this Court is completely different. The promissory note here was executed simultaneously with the mortgage—not many years later. Further the promissory note before this Court expressly provides that it is subject to the terms of the Mortgage. The promissory note states: “This Note is secured by a Mortgage of even date herewith” Promissory Note (Plaintiff’s Exhibit 2), p. 1.

The Court of Appeals in *NationsBank v. Scott Farms* also stated that language in the promissory note at issue there provided that the maker of the note would “remain and continue bound for the payment of principal and interest ... notwithstanding ... change or changes by way of release of any collateral held securing this Note,” and that such language rendered the non-recourse provision ineffective. That portion of the *Scott Farms* case is not applicable here. First, there is no comparable language in the promissory note now before the Court, providing that Defendant “shall remain and continue bound” for the obligations under the Note. Second, there is no issue as to any release of collateral. Third, this portion of the decision in the Court of Appeals is *dicta*. Finally, the language quoted by the Court of Appeals is intended to avoid the established rule that a maker of a promissory note is discharged to the extent the payee of the note release collateral without authorization of the maker. See, e.g., *Costas v. First Federal Sav. & Loan Assoc.*, 283 S.C. 94, 321 S.E.2d 51 (1984). Thus, this provision is intended to address only the entitlement of the holder of the note to a judgment, not the character or nature of that judgment. Defendant requests that the Court address the foregoing issues and reconsider its reliance on *NationsBank v. Scott Farms*.

5. The Court failed to consider the fact that Plaintiff had the loan documents—including the mortgage—reviewed and approved by Plaintiff’s attorney, an experience real estate lawyer. Defendant requests that the Court amend its Order to address this issue and to find that Plaintiff cannot now challenge the terms of the note and mortgage.

6. The Court failed to consider the fact that Plaintiff in accepting the mortgage had a duty itself to read and familiarize itself with the terms of the documents, and that having failed to do so, cannot now complain of the terms in those documents. Defendant

requests that the Court amend its Order to address this issue and to find that Plaintiff cannot now challenge the terms of the note and mortgage.

7. The Court failed to consider the fact that Plaintiff had accepted a mortgage in a separate transaction with Plaintiff, containing the identical non-recourse language, thus establishing that the inclusion of the non-recourse language in the subject mortgage was not an accident, oversight, or otherwise not intended. Defendant requests that the Court amend its Order to address this issue and to find that the inclusion of the non-recourse provision was part of the bargain between the parties.

8. The Court failed to consider the fact that that Plaintiff accepted the mortgage, and did not object to the terms in question until this dispute arose, seven years later. Defendant requests that the Court amend its Order to address this issue and to find that this delay establishes that Plaintiff accepted and agreed to the terms of the note and mortgage, and further bars Plaintiff from challenging the terms of the note and mortgage under the doctrines of waiver, estoppel, and laches.

9. The Court cited and relied upon *Burch v. Ashburn*, 295 S.C. 274, 368 S.E.2d 82 (Ct. App. 1988) for the proposition that a note may not be modified by a separate agreement.¹ The Court did not address Section 3-117 of the Uniform Commercial Code, adopted in South Carolina as S.C. Code Ann. § 36-3-117 (Cum. Supp. 2011). That statute expressly provides that the terms of a promissory note may be supplemented by a separate agreement, if that separate agreement arises from the same transaction:

[T]he obligation of a party to an instrument to pay the instrument may be modified, supplemented, or nullified by a separate agreement of the obligor and a person entitled to enforce the instrument, if the instrument is issued... as part of the same transaction giving rise to the agreement. To the extent an obligation is modified, supplemented, or nullified by an agreement under this section, the agreement is a defense to the obligation.

S.C. Code Ann. § 36-3-117 (Cum. Supp. 2011).

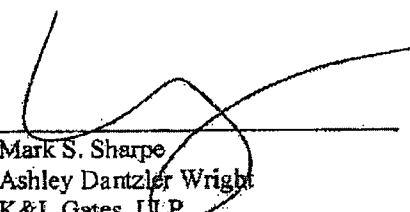
Defendant requests that the Court amend its Order to address this statute, and to find that the mortgage was effective to limit Plaintiff's recourse under the promissory note.

¹ Defendant respectfully submits that the cited proposition is not in fact the holding of *Burch v. Ashburn*.

10. The Court did not address the fact that the only direct witness as to the negotiations of the note and mortgage from whom testimony was taken was Defendant. The person who negotiated the transaction with Defendant on behalf of Plaintiff died long before the trial of this case. Defendant testified that it was the intent of the parties that the promissory note be non-recourse. None of Plaintiff's witness—by their own admission—ever had a conversation with Defendant during the negotiation and closing of the transaction. The Court is requested to amend its order to address the fact that the only competent evidence as to the parties' intent was that of Defendant, and his testimony was that the intent of the parties was that the financing be non-recourse.

11. The Court did not address the fact that Plaintiff in its complaint had not sought reformation of the note and/or mortgage, and had not alleged fraud in their execution or otherwise proved a basis for reformation. As a result, the Court by effectively writing the non-recourse provision out of the mortgage granted relief not sought by Plaintiff in its pleadings and not supported by the evidence presented. The Court is requested to amend its order to address this issue and find that the non-recourse provision should be given effect.

WHEREFORE, Defendant respectfully requests that this Court amend its Order in accordance with the foregoing.



Mark S. Sharpe
Ashley Dantzler Wright
K&L Gates, LLP
134 Meeting Street, Suite 200
Charleston, South Carolina 29401
Tel: (843) 579-5647
Fax: (843) 579-5601
Email: msharpe@warren-sinkler.com
awright@warren-sinkler.com

ATTORNEYS FOR DEFENDANT

Charleston, South Carolina
March 21, 2014

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

J. S. SANDERS COMPANY, LLC,

Plaintiff(s)

vs.

STEVEN P. LEVESQUE,

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

12-CP - 10- 3724

Submitted By: John J. Dodds, III
Address: 858 Lowcountry Blvd., Suite 101
Mt. Pleasant, SC 29464

SC Bar #: 1707
Telephone #: 843-881-6530
Fax #: 843-881-5433
Other:
E-mail: john@cisadodds.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

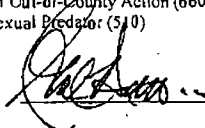
DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|---|--|---|--|
| Contracts
☐ Constructions (100)
☒ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20____-CP-_____
☐ Notice/ File Med Mal (230)
☐ Other (299) | Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order
☐ Other (899) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers Compensation Settlement Approval (780)
☐ Other (799) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in an Out-of-County Action (660)
☐ Sexual Predator (540) | | |

Submitting Party Signature: 

Date: May 24, 2012

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Allendale, Anderson, Beaufort, Clarendon, Colleton, Florence, Greenville, Hampton, Horry, Jasper, Lee, Lexington, Pickens (Family Court Only), Richland, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code § 15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)
)
COUNTY CHARLESTON)
)
J. S. SANDERS COMPANY, LLC,)
)
Plaintiff,)
v.)
STEVEN P. LEVESQUE,)
)
Defendant.)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 12-CP-10- 3724

SUMMONS
(Suit on Promissory Note)

Non-Jury

BY

JULIE J. ARMSTRONG
CLERK OF COURT

2012 JUN -8 AM 10:43

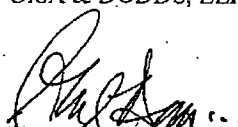
FILED

TO THE DEFENDANT ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer upon the subscribers at their office located at 858 Lowcountry Boulevard, Suite 101, Mount Pleasant, South Carolina 29464, within thirty (30) days after service hereof, exclusive of the date of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff in this action will apply to the Court for judgment by default for the relief demanded in the Complaint. Your answer must be in writing and signed by you or your attorney and must state your address or the address of your attorney, if signed by your attorney.

CISA & DODDS, LLP

By:



John J. Dodds, III
858 Lowcountry Blvd., Suite 101
Mt. Pleasant, SC 29464
P: (843)881-6530
F: (843)881-5433
SC Bar No.: 1707
john@cisadodds.com
ATTORNEY FOR PLAINTIFF

Mt. Pleasant, SC

May 24, 2012

STATE OF SOUTH CAROLINA)
)
COUNTY CHARLESTON)
)
J. S. SANDERS COMPANY, LLC,)
)
Plaintiff,)
v.)
STEVEN P. LEVESQUE,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 12-CP-10- 3724

COMPLAINT
(Suit on Promissory Note)

Non-Jury

2012 JUN -8 AM 10:43
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

The Plaintiff, above named, would allege unto this honorable Court as follows:

1. That the Plaintiff is a limited liability company organized and existing pursuant to the laws of the State of South Carolina and doing business in Charleston County, South Carolina.
2. That the Defendant is a citizen and resident of Charleston County, South Carolina.
3. That this honorable Court has jurisdiction over the subject matter of this action and the parties hereto.
4. That on March 10, 2005, the Defendant made, executed and delivered unto the Plaintiff a Purchase Money Promissory Note in the original principal sum of \$215,000.00, together with interest at the rate of six (6%) percent per annum compounded annually. A copy of the said Purchase Money Promissory Note is attached hereto as Exhibit "A" and incorporated herein by express reference.
5. That pursuant to the express terms of the Purchase Money Promissory Note, the Defendant agreed to repay Plaintiff the principal sum of \$215,000.00, together with interest at the rate of six (6%) percent per annum compounded annually, with all principal and interest due on the earlier to occur of March 10, 2012 or the payment in full of a Promissory Note, dated March 10, 2005, in the original principal amount of \$450,000.00.
6. That the Promissory Note which is the subject of this action became due and payable in full on March 10, 2012, however, the Defendant has failed to repay Plaintiff the principal sum of \$215,000.00, together with interest at the fixed rate of six (6%) percent per annum compounded annually.



7. That, upon information and belief, the failure by the Defendant to repay Plaintiff the principal sum of \$215,000.00, together with interest at the fixed rate of six (6%) percent per annum compounded annually, on March 10, 2012 constitutes an "Event of Default" in accordance with the express terms of the Promissory Note.

8. That, upon information and belief, in addition to the principal sum of \$215,000.00, together with interest at the fixed rate of six (6%) percent per annum compounded annually of and from March 10, 2005 through March 10, 2012, Plaintiff is entitled to collect a default rate of interest of and from March 11, 2012 at the rate of ten (10%) percent per annum.

9. That pursuant to the express terms of the Purchase Money Promissory Note, in addition to the foregoing principal sum and accrued interest, Plaintiff is entitled to collect reasonable attorney's fees and costs of and from the Defendant.

WHEREFORE, Plaintiff prays unto this honorable Court as follows:

1. That Plaintiff be awarded Judgment against the Defendant in the principal sum of \$215,000.00, together with interest thereon at the fixed rate of six (6%) percent per annum compounded annually of and from March 10, 2005 through March 10, 2012, as well as interest thereafter at the default rate of ten (10%) percent per annum, together with reasonable attorney's fees and costs; and

2. For such other and further relief as to this honorable Court is fair and proper.

CISA & DODDS, LLP

By: 

John J. Dodds, III
858 Lowcountry Blvd., Suite 101
Mt. Pleasant, SC 29464
P: (843)881-6530
F: (843)881-5433
SC Bar No.: 1707
john@cisadodds.com

ATTORNEY FOR PLAINTIFF

Mt. Pleasant, SC

May 24, 2012



PURCHASE MONEY PROMISSORY NOTE

\$215,000.00

March 10, 2005

FOR VALUE RECEIVED, Steven P. Levesque, ("Borrower"), promises to pay to the order of J. S. Sanders Company, L.L.C. (together with any heirs, subsequent holders, and assigns, "Lender"), at 1060 Fogarty Lane, Wando, SC 29492, or at such other place as Lender may from time to time designate, the principal sum of TWO HUNDRED FIFTEEN THOUSAND AND 00/100 DOLLARS (\$215,000.00), in lawful money of the United States of America, with interest at the rate or rates set forth below. The obligation of Borrower to make the payments of principal and interest hereunder shall be absolute and unconditional, and Borrower hereby irrevocably waives any rights of setoff, recoupment, or reduction as to any amounts due hereunder.

This Note shall bear interest before default at the fixed rate of 6.00% per annum compounded annually.

All principal and interest shall be due on the earlier to occur of (a) March 10, 2012, or (b) the payment in full of a note of even date herewith in the original principal amount of Four Hundred Fifty Thousand and 00/100 Dollars (\$450,000.00) (the "Maturity Date"), which shall be the final maturity date on this Note.

This Note may be prepaid in whole or in part at any time without penalty.

This Note is secured by a Mortgage of even date herewith encumbering certain land located in the Town of Awendaw, County of Charleston, State of South Carolina 29492 and identified by TMS number 700-00-00-201 (the "Mortgage"). The outstanding principal balance hereof, together with all accrued and unpaid interest, shall become immediately due and payable at the option of Lender and collectible without notice or demand, and Lender shall have all the rights and remedies available to her under applicable law and each and every document securing this Note, upon the occurrence of any one or more of the following events, each of which shall constitute an "Event of Default":

(a) The occurrence of an "Event of Default" under and as defined in the Mortgage, the giving of any required notice, and the continuation of such default unremedied beyond any applicable grace period set forth in such Mortgage;

(b) The transfer or assignment by the Borrower of assets for the benefit of any one or more creditors or all or substantially all of his assets except in the ordinary course of business;

(c) Any proceeding is commenced against Borrower under any bankruptcy or insolvency laws and such proceeding is not dismissed within thirty (30) after such commencement; or

(d) The death of Borrower.

Any failure of Lender to accelerate this Note as provided herein shall not constitute a waiver or other bar of the right to exercise the same in the event of any subsequent occurrence of the same or a different event giving rise to such option.

Upon the occurrence of any Event of Default, to the extent permitted by law, the rate of interest on the unpaid principal balance hereof shall, at the option of Lender, be increased to a rate (the "Default Rate") equal to four percent (4.0%) per annum plus the then applicable pre-default interest rate as set forth above. The provisions herein for a Default Rate shall not be deemed to extend the time for any payment hereunder or to constitute a "grace period" giving Borrower a right to cure any default. Failure of Lender at any time to exercise any of the aforesaid options or any other rights of Lender shall not constitute a waiver thereof, nor shall it be a bar to the exercise of any of the aforesaid options or rights at a later date. All rights and remedies of Lender shall be cumulative and may be pursued singularly, successively or together, at the option of Lender.

Borrower hereby (a) waives presentment and demand, protest, notice of dishonor or of acceleration; (b) waives any right to require Lender to retain any collateral securing this Note, or any other liabilities; (c) waives any right to require Lender to resort to exercising any remedies she may have against any other party or collateral securing this Note; (d) agrees and consents to any extension of time for payment or other modification of any term or condition of this Note without limit on the number or duration of such extensions or modifications; (e) agrees that Lender may exchange, substitute, swap, release, reduce, or otherwise permit the disposal of any collateral securing this Note; (f) agrees that, after the occurrence of an Event of Default, Lender may compromise or receive less than the full amount due on or value of any collateral and grant any other indulgence to any party primarily or secondarily liable with respect to this Note; and (g) acknowledges that the liability of each party liable hereon is joint and several with all other parties in the same capacity. All waivers and consents herein are given without notice, without liability to Lender and without affecting the liability of any party primarily or secondarily liable with respect to this Note. By this paragraph, Borrower intends to provide Lender with legal remedies which are in addition to and not in lieu of any other rights or remedies provided by law, all of which rights and remedies are cumulative and exercisable simultaneously or consecutively in any order without being deemed to have been waived for any reason.

Borrower understands and agrees that Lender may institute suit to collect amounts outstanding under this Note without seeking recourse to any of the collateral, and the failure of Lender to pursue the collateral shall in no way diminish or affect Borrower's liability hereunder.

Borrower agrees to pay all costs and expenses of collection (including reasonable attorneys' fees) when incurred by Lender, and all costs and expenses (including reasonable attorneys' fees) incurred by Lender in exercising or preserving any rights or remedies hereunder or in connection with the enforcement of this Note. Without limiting generality of the foregoing, Borrower agrees to pay all costs and expenses (including reasonable attorneys' fees) incurred by Lender in connection with any action to enforce this Note, or incurred by Lender in connection with the bankruptcy of Borrower.

Whenever possible, each provision of this Note shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision or portion of this Note shall be

prohibited by or invalid under such law, such provision or portion shall be ineffective to the extent of such prohibition or invalidity but without invalidating the remainder of such provision or portion or the remaining provisions or portions of this Note.

Notwithstanding anything herein to the contrary, if any interest rate calculated hereunder would exceed the applicable usury rate such interest rate shall be deemed to be reduced to the highest permissible rate, and all payments of interest in excess thereof shall be deemed to be partial prepayments of principal accepted without penalty or premium.

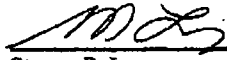
This Note is governed by and to be construed in accordance with the laws of the State of South Carolina. This Note is intended to be and shall be construed as an instrument under seal.

TO THE EXTENT NOW OR HEREAFTER PERMITTED BY LAW, BORROWER WAIVES TRIAL BY JURY WITH RESPECT TO ANY ACTION, CLAIM, SUIT OR PROCEEDING ON OR ARISING OUT OF THIS NOTE, THE OBLIGATIONS EVIDENCED HEREBY, AND ANY DOCUMENTS OR INSTRUMENTS EVIDENCING OR SECURING THIS NOTE OR SUCH OBLIGATIONS. ANY LITIGATION ARISING HEREUNDER OR RELATED HERETO MAY BE TRIED BY THE SOUTH CAROLINA COURTS OR THE FEDERAL COURTS OF SOUTH CAROLINA, AND BORROWER HEREBY CONSENTS TO THE JURISDICTION OF SUCH COURTS.

WAIVER OF APPRAISAL RIGHTS

The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty (30) days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. Pursuant to Section 29-3-680 of the Code of Laws of South Carolina, **THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.** The Borrower specifically acknowledges and affirms his waiver of appraisal rights as evidenced by his signature below.

IN WITNESS WHEREOF, the Borrower has hereunto caused this Note to be executed in his name and his seal affixed hereto as of the date first written above.



Steven P. Levesque

C:\Documents and Settings\mmaginnis\My Documents\Real estate closings\Levesque\215000 Note.031005.doc

IN THE COURT OF COMMON PLEAS

CASE NUMBER: 12-CP-10-3724

COUNTY OF CHARLESTON

J.S. Sanders Company, LLC,

Plaintiff,

vs.

Steven P. Levesque

Defendants

ANSWER

8

JULIE J. ARMSTRONG
CLERK OF COURT

CLERK OF COURT

2012 JUL -9 PM 3:47

7733

Defendant, answering the Complaint of Plaintiff, alleges as follows:

1. Defendant denies each and every allegation of the Complaint not specifically admitted herein.

FOR A FIRST DEFENSE

2. Defendant admits the allegations of Paragraph 1, 2, and 3.
3. Defendant admits so much of the allegations of Paragraph 4 as allege that the Defendant executed and delivered the promissory note referred to therein. Further answering the allegations of Paragraph 4, Defendant craves reference to the terms of said promissory note.
4. Defendant admits so much of the allegations of Paragraph 5 as allege that the Defendant executed and delivered the renewal promissory note referred to therein. Further answering the allegations of Paragraph 5, Defendant craves reference to the terms of said renewal promissory note.
5. Defendant admits so much of the allegations of Paragraph 6 as allege that payments have not been made as scheduled under the note. Further answering the

allegations of Paragraph 6, Defendant craves reference to the terms of said note. Defendant denies any allegation in Paragraph 9 that is inconsistent with the terms of the note.

6. Answering the allegations of Paragraph 7, Defendant craves reference to the terms of said note. Defendant denies any allegation in Paragraph 7 that is inconsistent with the terms of the note.

7. Answering the allegations of Paragraph 8, Defendant craves reference to the terms of the Note. Defendant denies any allegation in Paragraph 8 that is inconsistent with the terms of the note. Defendant also denies that Plaintiff is entitled to a personal judgment against Defendant.

8. Answering the allegations of Paragraph 9, Defendant craves reference to the terms of the Note. Defendant denies any allegation in Paragraph 9 that is inconsistent with the terms of the note. Defendant also denies that Plaintiff is entitled to a personal judgment against Defendant.

FOR A SECOND DEFENSE

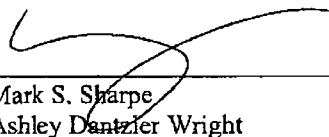
9. Defendant re-alleges and incorporates herein by reference the allegations of the proceeding paragraphs.

10. Simultaneously with the execution in delivery of the Promissory Note that is the subject of this action, Defendant executed and delivered to Plaintiff, and Plaintiff accepted, that certain purchase money mortgage date March 10, 2005 (the "Mortgage"), a copy of which is attached here to and incorporated by reference.

11. The Mortgage provides that Plaintiff's recourse for a payment of the Promissory Note is limited to the real property under the Mortgage, and that Plaintiff shall have no right to personal judgment against Defendant for amounts due and owing under the promissory Note. As a result, Plaintiff is not entitled to recover in the action.

WHEREFORE, having fully answered the Complaint, Defendant prays as follows:

- A. That the Complaint be dismissed, with costs; and
- B. The Defendant be granted such other and further relief as this Court deems just and proper.



Mark S. Sharpe
Ashley Dentzler Wright
Warren & Sinkler, LLP
P.O. Box 1254
Charleston, SC 29402
Phone: (843) 577-0660
Fax: (843) 577-6843
Email: msharpe@warren-sinkler.com
ATTORNEYS FOR DEFENDANT

Charleston, South Carolina
July 9, 2012

) IN THE COURT OF COMMON PLEAS
) CASE NUMBER: 2012-CP-10-3724

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JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

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7

Answer of Defendant Steven P. Levesque

John J. Dodds III, Esq.
858 Lowcountry Blvd., St. 101
Mount Pleasant, SC 29401

Mark S. Sharpe

Exhibit to Answer

BK P 528PG619

STATE OF SOUTH CAROLINA)
) **PURCHASE MONEY MORTGAGE**
COUNTY OF CHARLESTON)

THIS PURCHASE MONEY MORTGAGE ("Mortgage") made and entered into the 10th day of March, 2005, by and between Steven P. Levesque, whose address is 4068 Harleston Green Lane, Mount Pleasant, SC 29466 (hereinafter referred to as the "Mortgagor"), and J. S. Sanders Company, L.L.C., whose address is 1060 Fogarty Lane, Wando, SC 29492, (hereinafter referred to as the "Mortgagee");

WHEREAS, Mortgagor is indebted to Mortgagee for the unpaid purchase price of the real property subject to this Mortgage and a separate and additional Purchase Money Mortgage as to real property in Charleston County, South Carolina to evidence which, Mortgagor has executed and delivered to Mortgagee a Note of even date herewith, in the principal sum of TWO HUNDRED FIFTEEN THOUSAND AND 00/100 DOLLARS (\$215,000.00) payable to the order of Mortgagee at 1060 Fogarty Lane, Wando, SC 29492, or at such other place as the holder hereof may designate in writing, said principal sum being payable as set forth in said Note with interest at the rate set forth therein, to which Note reference is hereby made.

NOW, THEREFORE, Mortgagor in consideration of the aforesaid debt, and for the purpose of securing (1) payment of said indebtedness as in said Note provided, including future advances, and any and all modifications, amendments, renewals and/or extensions thereof, (2) payment of all other moneys secured hereby and (3) the performance of all the covenants, conditions, stipulations and agreements herein contained does by these presents, grant, bargain, sell and release unto the said J. S. Sanders Company, L.L.C., its successors and assigns, the following described property situated in Charleston County, South Carolina:

SEE EXHIBIT "A" ATTACHED HERETO
FOR A DESCRIPTION OF THE PROPERTY

TOGETHER, with all rights, privileges, interests, easements, tenements, hereditaments and appurtenances thereto belonging, and the rents, issues and profits thereof, and any and all improvements and fixtures now or subsequently attached to or used in connection with the mortgaged premises.

TO HAVE AND TO HOLD, all and singular the said premises, unto the Mortgagee, its successors and assigns forever.

AND the Mortgagor covenants with the Mortgagee that the Mortgagor is indefeasibly seized of a good and marketable fee simple title to said land and has good and lawful authority to mortgage said land; that the Mortgagor hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever claiming by, through or under him; and that said land is free and clear of all encumbrances except: (1) Taxes for the year 2005 and subsequent years, constituting a lien, but not yet due and payable, and (2) such other matters as existing at the time of transfer of title from the Mortgagee to the Mortgagor.

Exhibit to Answer

BA P 528PG620

PROVIDED, ALWAYS, that if said Mortgagor shall pay unto the said Mortgagee the certain Purchase Money Note of even date herewith made by the Mortgagor in favor of the Mortgagee in the principal amount of TWO HUNDRED FIFTEEN THOUSAND AND 00/100 DOLLARS (\$215,000.00), (hereinafter referred to as the "Note") and by its terms expressly secured by this Mortgage; AND if the Mortgagor shall duly, promptly and fully perform, discharge, execute, effect, complete and comply with and abide by each and every of the stipulations, agreements, conditions and covenants of the Note and this Mortgage, then this Mortgage and all assignments contained herein shall cease and be null and void; otherwise to remain in full force and effect.

AND the Mortgagor does hereby expressly covenant and agree:

1. To pay the Note in accordance with its terms promptly as the principal and interest thereon shall become due.
2. To pay all taxes, assessments and public charges already levied or assessed or that may hereafter be levied or assessed upon or against said land and premises or against any personal property herein conveyed, when due and payable according to law, before they become delinquent, and before any interest or penalty shall attach.
3. Not to do or permit waste on said premises without the consent of Mortgagee nor to do or permit any other act whereby the property hereby conveyed shall become less valuable.
4. Should the Mortgagor fail to make payment of any taxes, assessments or public charges before they become delinquent, or before any interest or penalty shall attach, or of any insurance premiums or other charges payable by Mortgagor, then the Mortgagee may make payments of the same. In case of such payments by the Mortgagee, the Mortgagor agrees to reimburse the Mortgagee on demand, and the amounts so paid, with interest thereon at the rate set forth in the Note, which shall be added to and become part of the debt secured by these presents. Such payment by the Mortgagee shall not constitute a waiver of any right arising from a breach of any of the covenants set forth herein. The lien of this Mortgage shall secure the payment of any such sums paid by the Mortgagee to the same extent that it secures payment of the Note.
5. Any sums which shall not be paid when due, whether maturing by lapse of time or by reason of acceleration under the provisions of the Note and whether principal, interest or money owing for advancements by the holder pursuant to the terms of this Mortgage, shall bear interest at the rate set forth in the Note until paid.
6. That in the event that said Note is placed in the hands of an attorney for collection, or in case the Mortgagee has become a party either as plaintiff or as defendant in any suit or legal proceeding in relation to the property described or the lien created herein, or for the recovery or protection of said indebtedness, the Mortgagor will repay on demand all reasonable costs and expenses arising therefrom, with interest at the rate set forth in the Note until paid, all of which sums, if unpaid, shall be added to and become a part of the debt secured by these presents.

Exhibit to Answer

BK P 528PG621

7. That the Mortgagee, without notice, and as often as he wishes to, may agree with any party obligated on said indebtedness, or having an interest in the security described herein, to renew or extend the time for payment of any part or all of the indebtedness secured hereby, without in any way affecting either the lien hereof or the liability of any other party.

8. The term event of default, wherever used in this Mortgage, shall mean any one or more of the following events:

(a) Failure by the Mortgagor to pay as and when due and payable, including by acceleration, any installment of principal and/or interest, or failure to pay taxes or insurance before they become delinquent or incur any interest or penalty.

(b) Failure by the Mortgagor to duly observe any other covenant, condition or agreement of the Note or of this Mortgage or any other mortgage given to secure the Note secured hereby or of any other instrument given to secure payment of said Note within thirty (30) days after written notice by Mortgagee to Mortgagor of such failure.

(c) The filing by the Mortgagor of a voluntary petition in bankruptcy or the Mortgagor's adjudication as a bankrupt or insolvent, or the filing by the Mortgagor of any petition or answer seeking or acquiescing in any relief for himself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency, or other relief for debtors, or the Mortgagor's seeking or consenting to or acquiescence in the appointment of any trustee, or receiver of the Mortgagor or of all or any substantial part of the premises or of any or all the rents, revenues, issues, earnings, profits, or income thereof, or the making of any general assignment for the benefit of creditors, or the admission in writing of his inability to pay his debts generally as they become due.

9. If an event of default shall occur and be continuing after the expiration of any applicable notice period, if no cure has been effected, all of the indebtedness secured hereby shall become and be immediately due and payable at the option of the Mortgagee, without further notice or demand, which are hereby expressly waived, and the Mortgagee may proceed to foreclose this Mortgage or otherwise pursue any right or remedy herein or by law provided.

10. It is agreed that nothing herein contained nor any transaction related thereto shall be construed or so operate as to require the Mortgagor to pay interest at a rate greater than it is now lawful in such case to contract for, or to make any payment or to do any act contrary to laws, that if any clauses or provisions herein contained operate or would prospectively operate to invalidate this Mortgage or the Note in whole or in part, then such clauses and provisions only shall be held for naught, as though not herein contained, and the remainder of this Mortgage shall remain operative and in full force and effect.

11. The Mortgagee shall be entitled to receive and recover the entire award made in any eminent domain proceedings to the extent that the same does not exceed the amount necessary to pay in full all outstanding sums secured by the lien of this Mortgage. Mortgagor shall be entitled to join in any such proceedings and to receive and recover any amount of such award in excess of the amount necessary to pay in full all outstanding sums

Exhibit to Answer

BK P 528PG622

secured by the lien of this Mortgage.

12. The Mortgagor hereby covenants and agrees that the sale of all or any portion of the real property encumbered hereby, whether voluntarily or by operation of law, shall constitute an event of default under the terms of this Mortgage and entitle the Mortgagee to accelerate all sums due on account of the Note secured hereby.

13. This instrument is to be governed by and construed in accordance with the laws of the State of South Carolina and each of the remedies provided for herein shall be cumulative so that the right of the Mortgagee to exercise one or more of such remedies shall not be construed to limit or preclude the right of the Mortgagee to exercise any other remedy or remedies set forth herein.

14. No delay by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by law, shall operate as a waiver thereof or preclude the exercise thereof during the continuance of any default hereunder.

15. Mortgagor and Mortgagee agree that Mortgagee's recourse of payment of Mortgagor's obligations under the Note secured by this Purchase Money Mortgage are limited to the real property mortgaged under this Mortgage. Under no circumstance shall the Mortgagee or any other person or entity have any other recourse to or claim for payment of such obligations against the Mortgagor except with respect to fraud or willful misconduct.

16. The covenants herein contained shall bind, and the benefits and advantages shall inure to the respective heirs, executors, administrators, successors and assigns of the parties hereto. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

[The remainder of this page left intentionally blank.]

Exhibit to Answer

OK P 528PG623

17. WAIVER OF APPRAISAL RIGHTS. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty (30) days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. Pursuant to Section 29-3-680 of the Code of Laws of South Carolina, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY. The Mortgagor specifically acknowledges and affirms his waiver of appraisal rights as evidenced by his signature below.

IN WITNESS WHEREOF, the Mortgagor hereto has hereunto set his Hand and Seal on the day and year first hereinabove written.

WITNESSES:

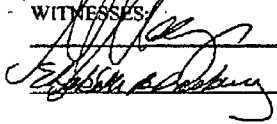
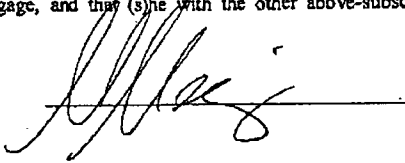

Steven P. Levesque

Exhibit to Answer

BX P 528PG624

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

PERSONALLY appeared before me the undersigned witness who, being duly sworn, deposes and says that (s)he saw the within named Steven Levesque sign, seal, and by his act and deed, deliver the within written Mortgage, and that (s)he with the other above-subscribed witness witnessed the execution thereof.



SWORN to before me this
10 day of March, 2005.

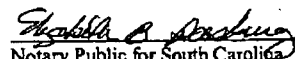
 (L.S.)
Notary Public for South Carolina
My Commission Expires: 7-13-08

Exhibit to Answer

BK P 528PG625

EXHIBIT "A"

ALL that certain lot, piece, or parcel of land situate, lying and being in the Town of Awendaw, County of Charleston, State of South Carolina, shown and designated as Lot 10, Bridle Gate [Bridal Gate], on that certain plat by Ashley Engineering & Consulting, Inc., dated October 2, 2001, and recorded in the RMC Office for Charleston County, S.C. (the "RMC Office") on October 16, 2001, in Book EF at page 124 (the "Plat"), said lot having such size, shape, dimensions, buttings and boundings as will by reference to said plat more fully and at large appear.

TOGETHER WITH a non-exclusive, perpetual, permanent, transferable, commercial easement appurtenant for access, ingress and egress, and utilities from U.S. Highway 17N to and adjoining Lot 10, over those properties now or formerly of Kay P. Curry shown as Lot 2, Lot 3, Lot 4, and Lot 5, and designated as "Bridle Gate Trail 100' Private Ingress/Egress Easement", "Seattle Slew Lane 50' Private Ingress/Egress Easement (25' E.S.)"; and "Lady's Secret Lane 50' Private Ingress/Egress Easement", all as shown on that certain plat by Ashley Engineering & Consulting, Inc., dated December 1, 2003, and recorded March 11, 2004, in Plat Book EG at page 947 (the "Easement Plat") in the RMC Office which is to run with the land for the use and benefit of the owners of Lot 10, their heirs, successors and assigns.

This is the same property conveyed by J.S. Sanders Company, L.L.C., to Steven P. Levesque by deed dated March 4, 2005, and recorded simultaneously herewith.

TMS Number: 700-00-00-201

Exhibit to Answer

BK P 528PG626

WARREN & SINKLER, L.L.P.
P.O. BOX 1254
CHARLESTON, SC 29402

FILED

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CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

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2 STATE OF SOUTH CAROLINA)
3) Court of Common Pleas
4 COUNTY OF CHARLESTON) Case No. 2012-CP-10-3724
5)
6 J.S. SANDERS COMPANY, LLC,)
7)
8 Plaintiff,)
9 vs.) Transcript of Record
10 STEVEN P. LEVESQUE,)
11)
12 Defendant.)
13 DATE: January 31, 2014

10

11 B E F O R E:

12 The Honorable William Jeffrey Young

13

14 A P P E A R A N C E:

15 John Joseph Dodds, II
16 For the Plaintiff17 Mark S. Sharpe
18 For the Defendant

18

19

20 Karen V. Andersen, RMR, CRR
21 Circuit Court Reporter

21

22

23

24

25

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EXHIBITS

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1 (Plaintiff's Exh. 1, Articles of organization
2 for J.S. Sanders Company, LLC, was marked in evidence.)
3 (Plaintiff's Exhibit 2, Agreement of sale, was
4 marked in evidence.)
5 (Plaintiff's Exhibit 3, Deed, was marked in
6 evidence.)
7 (Plaintiff's Exhibit 4, Settlement
8 Statement, was marked in evidence.)
9 (Plaintiff's Exhibit 5, Title transferring the
10 property to Mr. Levesque, was marked in evidence.)
11 (Plaintiff's Exhibit 6, Purchase money
12 promissory note, was marked in evidence.)
13 (Plaintiff's Exhibit 7, Purchase money
14 mortgage, was marked in evidence.)
15 (Plaintiff's Exhibit 8, Appraisal, was marked in
16 evidence.)
17 (Plaintiff's Exhibit 9, Calculation of the terms
18 of the promissory note, was marked in evidence.)
19 (Plaintiff's Exhibit 10, Affidavit of
20 attorney's fees, was marked in evidence.)
21 (Defendant's Exhibit 1, Mortgage, was marked in
22 evidence.)
23 (Defendant's Exhibit 2, Interrogatory, was
24 marked in evidence.)
25 (Defendant's Exhibit 3, Admission, was marked in

1 evidence.)

2 THE COURT: This case is J.S. Sanders Company,
3 LLC Steven Levesque under Docket 2012-CP-10-3724.

4 Present and appearing is Mr. John J. Dodds for
5 the plaintiff and Mr. Mark S. Sharpe for the defendant.

6 This matter is set for trial. Parties have
7 placed exhibits into evidence. I guess, are they in?
8 Have you all consented to all the exhibits?

9 MR. SHARPE: I think they are all in without
10 objection.

11 MR. DODDS: That's what I was going to say, is
12 I've got Plaintiff's Exhibit 1 through 10, which had been
13 marked and received in evidence without objection, Your
14 Honor.

15 MR. SHARPE: And I have submitted Defendant's
16 Exhibits 1, 2 and 3, which have been received in evidence
17 without objection.

18 MR. DODDS: Without objection, Your Honor.

19 THE COURT: All right. Y'all ready to proceed,
20 gentlemen?

21 MR. DODDS: Yes, Your Honor.

22 THE COURT: Call your first witness.

23 MR. DODDS: If it please the Court, I'm going to
24 call Randy Drew out of turn, if you don't mind. He's an
25 attorney who has a closing at eleven o'clock in Mount

1 Pleasant.

2 THE COURT: All right.

3 MR. DODDS: So I call Randy Drew to the stand.

4 RANDALL J. DREW,

5 having been duly sworn, testifies as follows:

6 THE CLERK: State your name, spelling your last
7 name:

8 THE WITNESS: Randall J. Drew, D-r-e-w.

9 DIRECT EXAMINATION

10 BY MR. DODDS:

11 Q. Mr. Drew, what do you do for living, sir?

12 A. I'm an attorney.

13 Q. And how long have you been an attorney?

14 A. Since 1997.

15 Q. And what is your main area of practice?

16 A. Real estate.

17 Q. Now, did you have occasion to represent J.S

18 Sanders Company, LLC, the plaintiff in this case,

19 relative to a sale of a lot to Mr. Levesque in March of
20 2005?

21 A. Yes, sir.

22 Q. And at my request, did you go back and review
23 your file concerning that transaction?

24 A. Yes, sir.

25 Q. All right. And what was your involvement in the

1 sale of the lot from J.S. Sanders Company, LLC to

2 Mr. Levesque?

3 A. Well, I reviewed the agreement of sale to make
4 sure that the transaction complied with the agreement of
5 sale.

6 Q. All right.

7 A. And then we reviewed the documents that were
8 prepared by the seller's attorney. We did numerous
9 documents related to -- the lot was in a larger -- part
10 of a larger tract. It was not developed. So there
11 were -- as I remember, there were roads that needed to be
12 constructed and maintenance agreements, easements,
13 access, subordination agreements, things like that.

14 Q. All right, sir. Let me show you what has been
15 received in evidence as Plaintiff's Exhibit 2 and ask if
16 you recognize that document?

17 A. Yes, sir. This is an agreement of sale.

18 Q. All right. And did you review that agreement on
19 behalf of the seller, J.S. Sanders Company, LLC?

20 A. Yes, sir.

21 Q. All right.

22 A. I believe it was executed after I received it.

23 Q. Okay. And does the agreement say anything about
24 any owner financing by J.S. Sanders, LLC?

25 A. Yes, sir.

1 Q. All right. What does it say?

2 A. Seller to finance based on \$35,000 downpayment
3 and 6 percent annual interest that will accrue and be
4 added to the principal balance at payoff, which will
5 accrue in seven years or before at the buyer's option.
6 There will be no prepayment penalties for early payoff.

7 Q. All right. Does the agreement contain any
8 provision regarding nonrecourse?

9 MR. SHARPE: Your Honor, objection. The issue
10 in this case is a provision in the mortgage that makes
11 reference to the mortgage indebtedness being nonrecourse,
12 and the agreement of that is somewhat in dispute. That
13 mortgage was executed at the closing. We believe that
14 that provision is plain and unambiguous. He's now trying
15 to change the meaning of that provision by a prior
16 agreement. It's all merged in that mortgage.

17 We object under the parole evidence rule that he
18 can't introduce any evidence outside of the mortgage as
19 to the -- or the note in the mortgage as to the meaning
20 of that plain and unambiguous provision.

21 THE COURT: This is a nonjury action. I will
22 take it as it is worth. I will rule on that, but I will
23 overrule the objection.

24 MR. SHARPE: Thank you, Your Honor.

25 MR. DODDS: Just for the record, Your Honor, I'm

1 not asking him to explain the document.

2 BY MR. DODDS:

3 Q. Is there a nonrecourse provision in the
4 agreement to buy and sell which has been received in
5 evidence as Plaintiff's Exhibit 2?

6 A. No, sir.

7 Q. Let me show you a copy of the purchase money
8 promissory note received in evidence as Plaintiff's
9 Exhibit 6 and ask if you recognize the document?

10 A. Yes, sir.

11 Q. And what is that document?

12 A. It's a promissory note for \$215,000 given by
13 Steven Levesque.

14 Q. Levesque?

15 A. Levesque, to JR Sanders Company, LLC, as lender.

16 Q. All right. And does the purchase money
17 promissory note contain a nonrecourse provision?

18 A. No, sir.

19 MR. SHARPE: Your Honor, if I may note a
20 continuing objection.

21 THE COURT: Your objection is on the record.

22 MR. SHARPE: Thank you.

23 THE COURT: Overruled.

24 MR. DODDS: Thank you.

25 BY MR. DODDS:

1 Q. Now let me show you, Mr. Drew, what has been
2 received in evidence as Plaintiff's Exhibit 7 and ask if
3 you recognize that document?

4 A. This appears to be the purchase money mortgage
5 executed in the transaction.

6 Q. All right. Let me refer you specifically to
7 Paragraph 15 of that mortgage.

8 A. Okay.

9 Q. All right. Are you familiar with the provision
10 set forth in Paragraph 15?

11 A. I don't recall these provisions at the time of
12 the negotiation of the transaction.

13 Q. All right. Did you have any specific
14 discussions with the attorney for Mr. Levesque concerning
15 Paragraph 15?

16 A. Not that I recall. If I had been negotiating a
17 nonrecourse or limited recourse instrument, it would have
18 been in the note and plain on the face of the note, not
19 in Paragraph 15 with no -- there's no caption on any of
20 the paragraphs, and it looks like another standard
21 boilerplate paragraph of the mortgage.

22 MR. SHARPE: Your Honor, I'm sorry, to the
23 extent he's testifying as an expert about the facts or
24 what he would have done had he drafted, I don't know how
25 that's --

1 THE COURT: Sustained.

2 BY MR. DODDS:

3 Q. Mr. Drew, did you have any conversations with
4 the late John Sanders concerning the provisions contained
5 in Paragraph 14 -- excuse me, Paragraph 15 of the
6 purchase money mortgage?

7 A. No, sir.

8 Q. Did you have any conversations with
9 Mr. Sanders's late wife concerning the provisions
10 contained in Paragraph 15 of the purchase money mortgage?

11 A. No, sir.

12 Q. Did you have any conversations with Mr. John S.
13 Sanders, III, Sammy Sanders, regarding the provisions
14 contained in Paragraph 15 of the mortgage?

15 A. No, sir.

16 Q. All right. And what was your reaction when I
17 referred you specifically to Paragraph 15 of the purchase
18 money mortgage?

19 A. I was shocked that it was in there, because we
20 had no discussions of anything dealing with limited or
21 nonrecourse on this transaction.

22 MR. DODDS: Thank you, Your Honor. No further
23 questions, Mr. Drew.

24 THE COURT: Thank you.

25 Mr. Sharpe.

1 MR. SHARPE: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. SHARPE:

4 Q. Mr. Drew, I understand your testimony to be that
5 you physically conducted this closing?

6 A. No, sir.

7 Q. What was your role in this closing? I don't
8 mean to trick you.

9 A. No. Mr. Warren's office closed the transaction.
10 So the documents that I reviewed and the documents that
11 were prepared in connection with the note, the mortgage,
12 any of those documents that I mentioned regarding
13 easements or maintenance of road, were done prior to the
14 closing. I didn't attend the closing, to the best of my
15 knowledge.

16 Q. Did you record it?

17 A. No, sir.

18 Q. So, effectively, you reviewed the package on
19 behalf of the seller?

20 A. Yes, sir.

21 Q. Did you have occasion to review the closing
22 package in connection with the sale of another lot by the
23 Sanders Company to Mr. Levesque?

24 A. Yes, sir.

25 Q. Do you know if -- let me hand you a document.

1 MR. SANDERS: May I approach the reporter?

2 THE COURT: You don't need to ask permission. I
3 figure you are not going to do anything nefarious with
4 this fellow attorney.

5 MR. SHARPE: I'm too old to do nefarious, Your
6 Honor.

7 BY MR. SHARPE:

8 Q. Mr. Drew, I'm handing you a document I've marked
9 as Defendant's Exhibit 1; if you would review that
10 briefly.

11 A. It appears to be the same form.

12 Q. And were you involved in the transaction to
13 which that mortgage relates?

14 A. To the extent it's same as the other
15 transaction, yes, sir.

16 Q. You reviewed the documents?

17 A. Yes, sir.

18 Q. Does that mortgage from the separate transaction
19 from the same language in it?

20 A. Yes, sir.

21 MR. SHARPE: Thank you very much.

22 No further questions.

23 THE COURT: Any redirect?

24 MR. DODDS: Just a couple follow-up.

25 REDIRECT EXAMINATION

1 BY MR. DODDS:

2 Q. Who did Mr. Warren represent in the transaction
3 between J.S. Sanders Company, LLC and Mr. Levesque?

4 A. Mr. Levesque.

5 Q. And were you familiar or did you have any prior
6 knowledge regarding the provision contained in paragraph
7 15 of Defendant's Exhibit 1 that Mr. Sharpe just showed
8 you?

9 A. I do not recall either transaction having a
10 limited or nonrecourse provision in it. And as I stated
11 before, if I had negotiated that with them, it would have
12 been in the note, because that's the obligation to repay.
13 The mortgage is security for it.

14 MR. SHARPE: And, Your Honor, to the extent he's
15 testifying as an expert --

16 THE COURT: Sure. Objection overruled.

17 BY MR. DODDS:

18 Q. Did you have any conversations with the late
19 John Sanders, with Nell Sanders, or with Sammy Sanders,
20 concerning the provisions contained in Paragraph 15 of
21 Defendant's Exhibit 1?

22 A. No, sir.

23 MR. DODDS: No further questions, Your Honor.

24 THE COURT: Any recross based on his redirect?

25 MR. SHARPE: No, Your Honor.

1 MR. DODDS: May he be excused, Your Honor?

2 THE COURT: You may be excused.

3 (Whereupon the witness is excused.)

4 MR. DODDS: We call Nell Sanders to the stand,
5 Your Honor.

6 NELL S. SANDERS,

7 having been duly sworn, testifies as follows:

8 THE CLERK: For the record, if you will please
9 state your name, spelling your last name.

10 THE WITNESS: Nell S. Sanders, S-a-n-d-e-r-s.

11 THE COURT: You may proceed, Mr. Dodds.

12 MR. DODDS: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MR. DODDS:

15 Q. You were married to the late John S. Sanders?

16 A. Yes.

17 Q. And I understand he passed away in July of
18 2008?

19 A. Correct.

20 Q. All right. Now, are you familiar with the
21 limited liability company known as JS Sanders Company,
22 LLC?

23 A. Yes, sir.

24 Q. All right. Let me show you what's been received
25 in evidence as Plaintiff's Exhibit 1, which appears to be

1 articles of organization for JS Sanders Company, LLC, and
2 ask if you recognize that?

3 A. Yes.

4 Q. Okay?

5 A. Yes.

6 Q. And were you a member of J.S. Sanders Company,
7 LLC?

8 A. Yes, sir.

9 Q. And was your late husband, John S. Sanders, a
10 member of J.S. Sanders Company, LLC?

11 A. Yes, sir.

12 Q. And was your son, John S. Sanders, III, Sammy
13 Sanders, also a member of J.S. Sanders Company, LLC?

14 A. Yes, sir.

15 Q. All right. And let me show you what's been
16 received in evidence as Plaintiff's Exhibit 3. Appears
17 to be a deed from you to J.S. Sanders Company regarding a
18 lot in Awendaw, South Carolina. Take a moment, if you
19 would, Ms. Sanders, and look at that document. Is that
20 your signature on Page 2?

21 A. It is.

22 Q. So you used to own this lot?

23 A. Yes, I did.

24 Q. And you conveyed it into the limited liability
25 company?

1 A. Correct.

2 Q. Okay. Limited liability company sold it to
3 Mr. Levesque?

4 A. Correct.

5 Q. Now, did you go to closing at Mr. Warren's
6 office; do you remember?

7 A. I went to quite a few, but I don't specifically
8 remember that.

9 Q. Do you recall Mr. Drew ever discussing with you
10 any nonrecourse provision --

11 A. No, sir.

12 Q. I'm sorry?

13 A. I'm sorry.

14 Q. Let me go ahead and finish. Do you recall
15 Mr. Drew ever discussing with you any nonrecourse
16 provision in the mortgage from Mr. Levesque to J.S.
17 Sanders Company, LLC?

18 A. No, sir.

19 Q. Okay.

20 MR. SHARPE: Your Honor, I hate to interrupt,
21 but just note since we have a different witness, that I
22 have the same objection to the testimony as to the extent
23 it's intended to vary the unambiguous terms --

24 THE COURT: Overruled.

25 MR. DODDS: Thank you.

1 BY MR. DODDS:

2 Q. Did your son, Sammy Sanders, ever tell you that
3 there was a nonrecourse provision in any mortgage that
4 Mr. Levesque executed in favor of J.S. Sanders Company,
5 LLC.

6 MR. SHARPE: Objection, Your Honor, hearsay.

7 MR. DODDS: He's here, Your Honor. He's going
8 to testify.

9 THE COURT: Overruled.

10 THE WITNESS: No, sir.

11 BY MR. DODDS:

12 Q. Did your son ever say, mom, there's a
13 nonrecourse provision in the mortgage for Mr. Levesque to
14 the LLC?

15 A. No way, no.

16 MR. DODDS: No further questions.

17 THE COURT: Mr. Sharpe.

18 MR. SHARPE: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. SHARPE:

21 Q. Ms. Sanders, at the time of the transaction in
22 which you deeded the property to the company and the
23 company deeded the property to Mr. Levesque, who handled
24 the day-to-day affairs of Sanders Company, LLC?

25 A. The three of us would discuss things and decide

1 what was the best recourse.

2 Q. Do you remember what percentage interest in the
3 LLC was owned by Mr. Sanders, the late Mr. Sanders?

4 A. No, I don't.

5 Q. Do you recall --

6 A. A third, I suppose.

7 Q. And I assume your answer would be for your son,
8 that he owned a third and that you owned a third?

9 A. Yes.

10 Q. And you have an interest in J.S. Sanders today;
11 that's correct?

12 A. Yes.

13 MR. SHARPE: No further questions, Your Honor.

14 THE COURT: Any redirect?

15 MR. DODDS: No, Your Honor.

16 THE COURT: Thank you. You may step down.

17 MR. DODDS: If it please the Court, I would call
18 John S. Sanders to the stand.

19 JOHN S. SANDERS,

20 having been duly sworn, testifies as follows:

21 THE CLERK: Sir, for the record, if you will
22 please state your name, spelling your last.

23 THE WITNESS: John Samuel Sanders, III,
24 S-a-n-d-e-r-s.

25 DIRECT EXAMINATION

1 BY MR. DODDS:

2 Q. Mr. Sanders, was John S. Sanders your late
3 father?

4 A. John S. Sanders, Jr.

5 Q. Junior, excuse me. And your mother is Nell
6 Sanders?

7 A. Yes, sir.

8 Q. And are you familiar with a company called J.S.
9 Sanders Company, LLC?

10 A. Yes, sir.

11 Q. And what is that company?

12 A. The company that my parents and I formed to
13 manage these properties that we were purchasing and
14 selling.

15 Q. All right. And the property that, to some
16 extent, is the subject of this case, was formerly owned
17 by your mother, Nell Sanders?

18 A. Yes, sir.

19 Q. And that property was conveyed by your mother
20 into J.S. Sanders Company, LLC?

21 A. Yes, sir.

22 Q. All right. And at some point, did J.S. Sanders
23 Company, LLC, sell that lot to the defendant,
24 Mr. Levesque?

25 A. Yes, sir.

1 Q. All right. Let me show you Plaintiff's Exhibit
2 2 and ask if you recognize the document.

3 A. It's an agreement to sell the property to
4 Mr. Levesque.

5 Q. All right. And was the property, in fact, sold
6 to Mr. Levesque in accordance with this agreement?

7 A. Yes, sir.

8 MR. SHARPE: Your Honor, same objection, new
9 witness. To the extent they are going to vary the terms
10 of the plain and ambiguous --

11 THE COURT: Objection overruled. Go ahead.

12 BY MR. DODDS:

13 Q. Let me show you what's been received in evidence
14 as Exhibit 5, Plaintiff's Exhibit 5, and ask you if you
15 recognize that document?

16 A. Yes, sir.

17 Q. What is that?

18 A. The title transferring the property to
19 Mr. Levesque.

20 Q. After your father died in July of 2008, who
21 began handling the affairs of J.S. Sanders Company, LLC?

22 A. Well, we were all handling the affairs. I've
23 taken over primary, you know, handling of affairs since
24 my father's passing.

25 Q. Thank you for bringing that to my attention.

1 Let's talk about the operation of J.S. Sanders Company in
2 March of 2005.

3 A. Yes, sir.

4 Q. What was your involvement with J.S. Sanders
5 Company, LLC, in March of 2005?

6 A. A manager, partner. You know, it was set up,
7 and the three of us, my mother, father and I, had, you
8 know, like a voting deal. Two out of three had to agree
9 to make a decision final or whatever. And, you know, we
10 set it up and, you know, made decisions for -- you know,
11 I'm the only son and so the -- it was set up for me to
12 eventually take over managing it, instrument of managing
13 it prior to --

14 Q. Were you one of the managers reflected in the
15 articles of organization received in evidence as
16 Plaintiff's Exhibit 1?

17 A. My dad and I were managers. I assume it's in
18 here. My dad and I were the managers.

19 Q. And you are familiar with the property that was
20 sold to Mr. Levesque in March of 2005?

21 A. Very.

22 Q. Let me show you what's been received in evidence
23 as Plaintiff's Exhibit 6 and ask if you recognize that
24 document?

25 A. The promissory note, purchase money order from

1 Mr. Levesque guaranteeing the payment of the LLC for the
2 property.

3 Q. All right. And does Plaintiff's Exhibit 6, the
4 purchase money promissory note, reflect the maturity
5 date?

6 A. Yes, sir.

7 Q. And what is that maturity date?

8 A. March 10th, 2012.

9 Q. All right, sir. Let me show you what's been
10 received in evidence as Plaintiff's Exhibit 7 and ask if
11 you recognize that document?

12 A. Mortgage of the property guaranteeing the title
13 to it from Mr. Levesque to the LLC.

14 Q. Prior to March 10, 2005, had you had any
15 conversations with Mr. Levesque concerning a nonrecourse
16 provision in the mortgage?

17 A. Not at all.

18 Q. Prior to March 10th, 2005, had you had any
19 conversations with Mr. Drew, the attorney for the
20 company, concerning a nonrecourse provision in the
21 mortgage?

22 A. No, sir.

23 Q. All right. Prior to March 10, 2005, did you
24 have any conversations with your mother, Nell, concerning
25 a nonrecourse provision in the mortgage?

1 A. No, sir.

2 Q. When did you first learn that there was a
3 nonrecourse provision in the purchase money mortgage
4 received in evidence as Plaintiff's Exhibit 7?

5 A. After several meetings with Mr. Levesque, at a
6 point he -- last of our meetings and negotiations, he
7 said that that was in there and that that was the first
8 time --

9 MR. SHARPE: Objection, Your Honor. To the
10 extent he's going to get into settlement discussions or
11 post-closing meetings, I think that's not admissible.
12 And I think --

13 MR. DODDS: I'm sorry. I'm not asking him to
14 discuss that. I just asked him --

15 THE COURT: He was discussing when he discovered
16 it.

17 MR. SHARPE: Thank you, Your Honor.

18 THE COURT: Overruled.

19 BY MR. DODDS:

20 Q. Mr. Sanders, what is your educational
21 background?

22 A. High school and some college.

23 Q. All right. What do you mean by some college?

24 A. I went to Trident Tech for two years.

25 Q. What about your father, John, the late John S.

1 Sanders, Jr., what was his educational background?

2 A. He graduated from the Citadel with a business
3 degree.

4 Q. All right. What about your mother, Nell
5 Sanders?

6 A. High school.

7 Q. Okay. Now, in March or -- excuse me, subsequent
8 to March 10, 2012, did you have occasion to contact
9 Mr. Levesque regarding the promissory note received in
10 evidence as Plaintiff's Exhibit 6?

11 A. Yes, sir.

12 Q. All right. And how did you contact him?

13 A. I don't recall the exact details. We did some
14 texting, e-mails, and calls at that time, and met --
15 actually met at East Bay Deli for the first time --

16 Q. All right.

17 A. -- in Mount Pleasant, north of Mount Pleasant,
18 17.

19 Q. On March 10, 2012, did Mr. Levesque tender a
20 check to you for any moneys owed in accordance with the
21 note?

22 A. No, sir.

23 Q. Has Mr. Levesque at any time subsequent to March
24 10, 2005, paid any moneys to J.S. Sanders Company, LLC,
25 in accordance with the purchase money promissory note

1 received in evidence as Plaintiff's Exhibit 6?

2 A. No, sir.

3 Q. All right. Let me show you, Mr. Sanders, what
4 has been received in evidence as Plaintiff's Exhibit 8,
5 which appears to be an appraisal report of a lot in
6 Awendaw, South Carolina, and ask if you recognize that?

7 A. Yes, sir.

8 Q. What is that, sir?

9 A. It's an appraisal of the subject property, the
10 one in question.

11 Q. How is it that that appraisal came to be
12 performed?

13 A. Mr. Levesque and I had a discussion, and we were
14 not in agreement on what the value of the actual property
15 was. And through discussion between the two of us, we
16 decided we needed to get an appraisal to have a value of
17 the property.

18 Q. Why did you feel you had to have an appraisal?

19 A. Because we were far -- we were substantially far
20 apart on what we considered the value of the property.

21 Q. All right.

22 MR. SHARPE: Your Honor, I just would renew my
23 objection to the extent they get into settlement
24 discussions.

25 THE COURT: Sustained.

1 BY MR. DODDS:

2 Q. Mr. Sanders, let me show you what has been
3 marked and received in evidence as Plaintiff's Exhibit 9
4 and ask you if you recognize that document?

5 A. Yes, sir.

6 Q. And what is that?

7 A. It's the calculation of the terms of the
8 promissory note, amount of money that Mr. Levesque owes
9 on the property.

10 Q. And is the amount reflected in Exhibit 9 through
11 today, January 31, 2014?

12 A. Yes, sir.

13 Q. And what is that amount?

14 A. \$381,536.87.

15 Q. At some point, Mr. Sanders, did you contact my
16 office concerning the collection of moneys due in
17 accordance with the promissory note that has been
18 received in evidence?

19 A. Yes, sir.

20 Q. And you paid my firm a retainer fee in the
21 amount of \$2,500?

22 A. Yes, sir.

23 Q. Since that time, you have continued to pay
24 attorney's fees and costs that have been incurred in this
25 action?

1 A. Yes, sir.

2 Q. Let me show you what's been received in evidence
3 as Exhibit 10, affidavit of attorney's fees. And I want
4 you to look to the various invoices attached to that
5 Exhibit 10.

6 A. They are past bills that I have paid. I think
7 the last one is the current bill that hadn't been
8 actually paid yet.

9 Q. The billing of January 30, 2014, has not yet
10 been tendered to you?

11 A. No, sir. It's current to date.

12 Q. Have you looked at the itemization on the
13 January 30, 2014, billing?

14 A. Yes, sir.

15 Q. And did you participate in depositions at my
16 office last week with A. William Roberts, Jr. &
17 Associates as the court reporters?

18 A. Yes, sir.

19 Q. And do you believe that the January 30, 2014,
20 invoice is consistent with time that you and I have spent
21 or I have spent with regard to this case?

22 A. Yes, sir.

23 Q. Mr. Sanders, is J.S. Sanders Company, LLC
24 seeking a money judgment against Mr. Levesque to include
25 attorney's fees and costs in accordance with the terms of

1 the purchase money, promissory note?

2 A. Yes, sir.

3 MR. DODDS: No further questions, Your Honor.

4 THE COURT: Thank you, Mr. Sharpe.

5 MR. SHARPE: Thank you, Your Honor.

6 CROSS-EXAMINATION

7 BY MR. SHARPE:

8 Q. Mr. Sanders, isn't it true that you were not
9 involved in the sale of the lot to Mr. Levesque?

10 A. I was involved in making the decision with my
11 father and my mother on the sale of the property.

12 Q. Did you ever have a conversation with
13 Mr. Levesque prior to the closing about the terms of that
14 sale?

15 A. No, sir.

16 Q. Did you go to the closing?

17 A. No, sir.

18 Q. Did you review any of the documents relating to
19 the closing up to the time of the closing? I know you
20 looked at them later. But as of the closing date, you
21 never looked at those documents, did you?

22 A. Yes, sir, I did.

23 Q. When did you look at those documents?

24 A. I don't recall. That was several years ago.

25 There were several closings. And I did look at papers

1 from closings on numerous occasions, and it was standard.
2 And my father and I, you know, negotiated the deals,
3 talked about the deals, numerous deals. This was one of
4 them.

5 Q. So you had no problems with the paperwork
6 relating to the Sanders -- to Mr. Levesque's purchase?

7 A. I did not -- I did not see a problem with them
8 at the time.

9 Q. Did you negotiate the price with Mr. Sanders?

10 A. With my -- I discussed the terms and the price
11 with my father, not with Mr. Levesque.

12 Q. Thank you. Did you negotiate the interest rate
13 on the promissory note that's in Plaintiff's Exhibit 6?
14 Did you negotiate that interest rate with Mr. Levesque?

15 A. Not with Mr. Levesque.

16 Q. Now, let me hand you again Plaintiff's Exhibit
17 6. And what is the date on Plaintiff's Exhibit 6?

18 A. March 10th, 2005.

19 Q. Let me hand you Plaintiff's Exhibit 7, which is
20 the purchase money mortgage. What is the date on
21 Plaintiff's Exhibit 7? I believe it's on the first or
22 second line.

23 A. Says 10th, March 2005. Sorry.

24 Q. So am I correct that those two exhibits, 6 and
25 7, are dated the same date?

1 A. At that location, they are.

2 Q. Okay. And those two documents both relate to
3 the same transaction, being the sale to Mr. Levesque?

4 A. I don't see anything that indicates other --

5 Q. That's fine. Did you have any discussions with
6 your father prior to closing about the maturity, what
7 date should be the maturity date of this promissory note
8 of Plaintiff's Exhibit 6?

9 A. In part of my discussion in making the decision
10 to do the deal.

11 Q. And did you have discussions with your father
12 about the interest rate?

13 A. Yes, sir.

14 Q. Did J.S. Sanders sell another lot besides the
15 one we are here about today to Mr. Levesque?

16 A. Yes, sir.

17 Q. Did you look at the documents relating to that
18 sale prior to closing?

19 A. Yes, sir.

20 Q. Did you see any problems with those documents?

21 A. At the time, no, sir.

22 Q. Let me hand you again Plaintiff's Exhibit 7.
23 And I believe we've concluded that that is the mortgage
24 relating to the transaction to which the note we are here
25 about today was.

- 1 A. Yes, sir.
- 2 Q. Would you look at Paragraph 15 of that mortgage?
- 3 A. I'm familiar with it at this time.
- 4 Q. Okay. Let me hand you a document that's marked
- 5 Defendant's Exhibit 1. Would you look at that document.
- 6 Can you identify that document?
- 7 A. Mortgage on the other property that we sold
- 8 Mr. Levesque.
- 9 Q. All right. And would you look at Paragraph 15
- 10 of that document?
- 11 A. Yes, sir.
- 12 Q. Is that the same Paragraph 15 that's in the
- 13 other mortgage?
- 14 A. Yes, sir.
- 15 Q. Did you personally do the calculation of that
- 16 balance of indebtedness?
- 17 A. The one that's here?
- 18 Q. Yes, the one that's here as Exhibit --
- 19 A. I did one earlier. That's not the exact one I
- 20 did. Mr. Dodds did that one.
- 21 Q. Exhibit 9. All right. So Mr. Dodds prepared
- 22 that?
- 23 A. Yes, sir.
- 24 Q. Have you reviewed that?
- 25 A. Yes, sir.

1 Q. Do you believe it's accurate?

2 A. Yes, sir.

3 Q. What was the real estate market like in March of
4 2005?

5 A. I would say very good.

6 Q. It was strong?

7 A. Yes, sir.

8 Q. Lots were selling like hot cakes?

9 A. Very well, yes, sir.

10 Q. Lots of demand?

11 A. Yes, sir.

12 Q. Appraised values going up?

13 A. Absolutely, common knowledge.

14 Q. Couldn't go down, right?

15 A. Well, I disagree with you there.

16 MR. SHARPE: No further questions, Your Honor.

17 THE COURT: Any redirect?

18 REDIRECT EXAMINATION

19 BY MR. DODDS:

20 Q. Did you have any discussions with your father
21 where you were told about a nonrecourse provision in the
22 purchase order mortgage to be executed by Mr. Levesque?

23 A. No, sir.

24 MR. DODDS: No further questions, Your Honor.

25 THE COURT: All right. Thank you. You may step

1 down.

2 MR. DODDS: Your Honor, I would call the
3 defendant, Steven Levesque, to the stand.

4 STEVEN LEVESQUE,

5 having been duly sworn, testifies as follows:

6 THE CLERK: Sir, for the record, if you will
7 please state your name, spelling your last name.

8 THE WITNESS: Steven Paul Levesque,
9 L-e-v-e-s-q-u-e.

10 DIRECT EXAMINATION

11 BY MR. DODDS:

12 Q. Thank you, Mr. Levesque. You are a college
13 graduate, aren't you?

14 A. Yes.

15 Q. The transaction that you had with J.S. Sanders
16 Company, LLC in March of 2005 was not the first time that
17 you had executed a note or a mortgage; isn't that true?

18 THE COURT: Please turn your phone off, ma'am.

19 MR. DODDS: I apologize, Your Honor.

20 THE WITNESS: Correct. I previously bought a
21 house.

22 BY MR. DODDS:

23 Q. So you are familiar with what a note is? You
24 are familiar with what a mortgage is?

25 A. Generally.

1 Q. Okay. Let me show you the agreement to buy and
2 sell real estate between you and Nell Sanders dated
3 December of 2004 received in evidence as Plaintiff's
4 Exhibit 2 and ask if you recognize that?

5 A. Yes, I do.

6 Q. And does that document --

7 MR. SHARPE: Your Honor, we have a new witness.
8 I know I'm objecting to --

9 THE COURT: Overruled.

10 BY MR. DODDS:

11 Q. Mr. Levesque, does Exhibit 2 bear your signature
12 on the last page?

13 A. Yes, it does.

14 Q. Did you read Exhibit 2 thoroughly before
15 affixing your signature on that agreement?

16 A. Yes.

17 Q. All right. And you were familiar with all the
18 terms and conditions?

19 A. Yes.

20 Q. And that agreement marked Plaintiff's Exhibit 2
21 sets forth the entire agreement between you and Nell
22 Sanders regarding the sale of the lot in Awendaw, South
23 Carolina, correct?

24 A. It sets forth at the time of this. It was
25 subsequently modified by the actual mortgage and the note

1 and other supporting documentation.

2 Q. All right. So your testimony today before this
3 Court is that the agreement that's been received in
4 evidence as Plaintiff's Exhibit 2 was modified in writing
5 at a later date?

6 A. I shouldn't say it was modified. It was
7 superseded by the note and the mortgage and the
8 supporting documents which effectuated the transaction.

9 Q. Let me, Mr. Levesque, have you read into the
10 record, please, paragraph 26. Let me make sure I'm
11 correct.

12 Let me have you read into the record paragraph
13 26 of Plaintiff's Exhibit 2, please.

14 A. Entire binding agreement. This written
15 instrument, including additional items and conditions set
16 forth in the reverse, expresses the entire agreement and
17 all promises, covenants and warranties between the buyer
18 and seller. Can be changed only by a subsequently
19 written instrument signed by both parties. Both buyer
20 and seller hereby acknowledge that they have not received
21 or relied upon the statements or representations by
22 either broker or their agents which were not expressly
23 stipulated herein. The benefits and obligations shall
24 therein bind parties hereto and their heirs, assigns,
25 successors, executors or administrators. Whenever used,

1 singular shall include plural, and use of any gender
2 shall include all.

3 Q. Okay. Now, do you have with you today a
4 subsequently written instrument signed by anybody
5 associated with J.S. Sanders Company, LLC?

6 A. If I understand the question correctly, we have
7 several. We have the mortgage. We have the note. We
8 have a lot of ancillary documents that Mr. Drew referred
9 to, which were necessary to effectuate the transaction.

10 Q. Okay. Were any of the documents that you just
11 described signed or executed by anybody associated with
12 J.S. Sanders Company, LLC?

13 A. Yes.

14 Q. Okay. Who?

15 A. Mr. Sanders.

16 Q. And what document are you referring to?

17 A. The mortgage, the note, and there were other
18 documents, again, that had to be put in place for the
19 property.

20 Q. Okay. Well, let's take them one at a time. Let
21 me show you the note that's been received in evidence as
22 Plaintiff's Exhibit 6. Take a moment and look through
23 that document.

24 A. Okay.

25 Q. Can you show me on Plaintiff's Exhibit 6 where

1 that document was signed or executed by anyone associated
2 with J.S. Sanders Company, LLC?

3 A. No, I was mistaken.

4 Q. Okay. Let me show you what's been received in
5 evidence as Plaintiff's Exhibit 7, which is the mortgage
6 that you executed in favor of J.S. Sanders Company, LLC.
7 Take a look at that document.

8 A. Okay.

9 Q. Is the mortgage, the purchase money mortgage
10 that's been received in evidence as Plaintiff's Exhibit
11 7, does that document contain the signature of anyone
12 associated with J.S. Sanders Company, LLC?

13 A. No, I was mistaken.

14 Q. Okay. Now that you've reviewed the note and the
15 mortgage, are you able to present today any document
16 signed by anyone associated with J.S. Sanders Company,
17 LLC that changes the terms and conditions set forth in
18 the agreement to buy and sell received in evidence as
19 Plaintiff's Exhibit 2?

20 A. I would need to review the entire closing
21 package to be certain of that.

22 Q. Did you bring the entire closing package with
23 you today?

24 A. No.

25 Q. Okay. You realize that today is your day in

1 court?

2 A. Understood.

3 Q. All right. So, just so I understand your
4 position, your position today is that the agreement to
5 buy and sell real estate was subsequently modified by a
6 writing signed by J.S. Sanders Company, LLC?

7 A. I'm sorry; could you repeat the question?

8 Q. Is it your position today that this agreement to
9 buy and sell real estate, which has been received in
10 evidence as Plaintiff's Exhibit 2, which pursuant to
11 paragraph 26 you just said -- what you've just read into
12 the record, which states it can be changed only by a
13 subsequently written instrument signed by both parties,
14 is there a document that you have today that is a
15 subsequently executed instrument signed by both parties
16 which modifies the terms of this agreement received in
17 evidence as Plaintiff's Exhibit 2?

18 A. Not with me today, no.

19 Q. Okay. And you agree, Mr. Levesque, that no
20 moneys whatsoever have been paid by you to J.S. Sanders
21 Company, LLC in accordance with the purchase money
22 promissory note marked Plaintiff's Exhibit 6, correct?

23 A. Not since the closing.

24 Q. I'm sorry, not since the closing. You paid
25 \$35,000 down in accordance with the closing?

1 A. Correct.

2 Q. At the closing? And that's why the -- and the
3 purchase price was \$250,000 for the lot?

4 A. Right.

5 Q. That's why the purchase money promissory note is
6 in the amount of \$215,000, correct?

7 A. Correct.

8 Q. So, again, you have not paid any moneys
9 whatsoever in accordance with the purchase money
10 promissory note for \$215,000, correct?

11 A. Correct.

12 Q. Your position, Mr. Levesque, is that the
13 nonrecourse provision contained in Paragraph 15 of the
14 mortgage precludes Mr. -- excuse me, precludes J.S.
15 Sanders Company, LLC from pursuing a personal judgment
16 against you?

17 A. Beyond the property itself, that's correct.

18 Q. Okay. Are you familiar with the appraisal
19 rights statute, Mr. Levesque?

20 A. No.

21 Q. The note and the mortgage were prepared by
22 Attorney Warren, your attorney, correct?

23 A. Correct.

24 Q. I'm looking at Paragraph 17 of the purchase
25 money mortgage, which appears, to some extent, in big

1 bold print just above your signature. I want you, if you
2 would, to take a look at Paragraph 17.

3 A. Okay.

4 Q. If this was a nonrecourse loan, why would it be
5 necessary to include a provision where you would waive
6 your right to invoke the appraisal statutes?

7 A. I'm not an attorney. I don't know that.

8 Q. I'm sorry. Bad question. I apologize.

9 Mr. Levesque, do you agree with me that there is
10 no provision in the promissory note received in evidence
11 as Plaintiff's Exhibit 6 comparable to Paragraph 15 in
12 the purchase money mortgage?

13 A. Yes.

14 Q. Okay. And if you would, please, sir, would you
15 read the last sentence in the first paragraph of
16 Plaintiff's Exhibit 6 starting with the obligation?

17 A. The obligation of the borrower to make the
18 payments of principal and interest hereunder shall be
19 absolute and unconditional, and borrower hereby
20 irrevocably waive any rights of set-off, recoupment or
21 reduction as to amounts due hereunder.

22 Q. And you read the terms of the note before you
23 signed it, right?

24 A. Yes.

25 Q. And did you understand the words absolute and

1 unconditional?

2 A. I understood them as the note was in conjunction
3 with the mortgage.

4 Q. Do you acknowledge, Mr. Levesque, that the
5 purchase money promissory note documented your promise to
6 pay 215,000 to J.S. Sanders Company, LLC?

7 A. Along with the mortgage, yes.

8 MR. DODDS: Thank you. Your Honor, no further
9 questions.

10 THE COURT: Mr. Sharpe.

11 MR. SHARPE: Your Honor, I've got a little bit
12 of a dilemma in that I made an objection to any evidence
13 suggesting that the document means other than what it
14 says fully, and the Court has ruled. I'm concerned if I
15 ask him on cross or direct afterwards to address that
16 issue, that I've waived that objection.

17 THE COURT: I will not take it that you waived
18 that objection.

19 MR. SHARPE: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. SHARPE:

22 Q. Mr. Levesque, you were asked some questions
23 about Plaintiff's Exhibit 2, which is the agreement to
24 buy and sell real estate.

25 A. Yes.

1 Q. Let me hand you that exhibit. What does that
2 say the interest rate on the seller financing would be?

3 A. Six percent.

4 Q. And I believe Mr. Dodds asked you is there
5 anything in this agreement about the note being
6 nonrecourse?

7 A. No.

8 Q. Is there anything in here about the note not
9 being nonrecourse?

10 A. No.

11 Q. So this just doesn't address whether or not the
12 seller indebtedness was recourse; is that correct?

13 A. That's correct, it was silent with regard to
14 those matters.

15 Q. Now, did you have occasion to purchase another
16 lot from J.S. Sanders Company, LLC?

17 A. Yes, I did.

18 Q. And was the nonrecourse provision in question
19 present in the mortgage relating to that other lot
20 purchased?

21 A. Yes, it was.

22 Q. Would you please turn to Paragraph 15. And I'm
23 looking at Plaintiff's Exhibit 7 now and handing it up to
24 you, which is the mortgage. Would you read Paragraph 15
25 slowly so that the court reporter, who has a hard enough

1 job, could keep up with us.

2 A. Mortgagor and mortgagee agree that mortgagee's
3 recourse of payment of mortgagor's obligations under the
4 note secured by this purchase money mortgage are limited
5 to the real property mortgaged under this mortgage.
6 Under no circumstance shall the mortgagee or any other
7 person or entity have any other recourse to or claim for
8 payment of such obligations against mortgagor, except
9 with respect to fraud or willful misconduct.

10 Q. Does that provision being in the mortgage
11 reflect your understanding of the transaction?

12 A. It completely reflects my understanding of the
13 transaction.

14 MR. DODDS: Objection on the grounds that it
15 does violate the parol evidence rule.

16 THE COURT: I'm going to overrule your
17 objection.

18 MR. DODDS: Thank you.

19 THE WITNESS: Yes, it is my complete
20 understanding of the mortgage.

21 MR. SHARPE: I have no further questions, Your
22 Honor.

23 MR. DODDS: Just one follow-up question.

24 THE COURT: Yes.

25 REDIRECT EXAMINATION

1 BY MR. DODDS:

2 Q. Let's look at this agreement real quickly again,
3 Mr. Levesque. Specifically again, and I'm going to ask a
4 quick question and I'm going to sit down, but let me
5 again -- again, let's look to paragraph 26. Isn't it
6 true that this document says that this written instrument
7 expresses the entire agreement and all promises,
8 covenants and warranties between the buyer and seller?

9 A. Same as I read before.

10 Q. That's what it says, right?

11 A. Yeah.

12 Q. You've got to say yes or no.

13 A. It's yes, it's the same as I read out earlier.

14 MR. DODDS: Thank you. Nothing further,

15 Judge.

16 THE COURT: Any recross?

17 MR. SHARPE: One briefly, Your Honor.

18 RECCROSS-EXAMINATION

19 BY MR. SHARPE:

20 Q. I believe he just asked you about Plaintiff's
21 Exhibit 2.

22 A. Yes.

23 Q. What's the date on Plaintiff's Exhibit 2?

24 A. It's dated December, 2004.

25 Q. All right. And let me hand you the purchase

1 money mortgage, which is Plaintiff's Exhibit 7.

2 A. Yes.

3 Q. What's the date on that?

4 A. It's dated 10, March, 2005.

5 Q. So which document was later?

6 A. The purchase money mortgage.

7 MR. SHARPE: No further questions, Your Honor.

8 MR. DODDS: Nothing further, Your Honor.

9 THE COURT: Thank you. You may step down.

10 MR. DODDS: Your Honor, that's plaintiff's case.

11 MR. SHARPE: Your Honor, I would like to move
12 for a directed verdict. For the record, I prepared a
13 written motion so it's in the record, if I may approach
14 the Court.

15 THE COURT: Certainly.

16 MR. SHARPE: The basis for the motion is
17 essentially this, the authorities are well settled that
18 where you have a note and a mortgage executed at the same
19 time, they are to be construed as one instrument and
20 harmonized. The testimony is clear that this note and
21 this mortgage were executed together, and that,
22 therefore, they should be construed together.

23 It's also clear, and I cited the statement in my
24 memorandum -- I can't seem to find a copy -- statement of
25 the law of property and mortgages says that a nonrecourse

1 provision may be in the note and the mortgage or either
2 the note or the mortgage. That is the restatement of
3 property principle. The quote from the restatement is on
4 Page 4 of that memorandum, Your Honor.

5 I've also quoted language in there that there's
6 nothing about holder recourse or anything that changes
7 this result. It doesn't apply where the note is between
8 the purchaser and a seller. The nonrecourse language in
9 the mortgage is clear and unambiguous. It is a question
10 for the Court to interpret. We don't think that parol
11 evidence to vary a clear and unambiguous term.

12 THE COURT: I have a question. That's an
13 unambiguous term, but there's no evidence -- or tell me
14 where the evidence is that the mortgagee agreed to that.
15 I mean, if this was a -- if the mortgagee had signed the
16 mortgage as well -- but do you have any evidence that the
17 mortgagee -- I mean, from what I'm seeing, it looks like
18 this was slipped in on a closing that the mortgagors
19 didn't attend. Maybe that's a problem, but I see nothing
20 anywhere until that date on that one document that says
21 there's no recourse.

22 Do you have anything to show me to prove that
23 the mortgagors agreed to this specific clause?

24 MR. SHARPE: The answer is, not in a document
25 like that. I do believe it's customary on note and

1 mortgages not for the payee to sign the note, obviously;
2 he's the payee. And it's not customary for the payee as
3 mortgagee to sign the mortgage. They accepted this note
4 or mortgage. We have testimony that they used the same
5 language in another mortgage.

6 And on my case, I will call Mr. Levesque, who I
7 believe will address that question.

8 THE COURT: All right. So your motion is
9 denied.

10 MR. SHARPE: Thank you, Your Honor.

11 THE COURT: Call your first witness.

12 We've been in here for awhile. Why don't we
13 take a ten-minute recess.

14 (Whereupon, recess transpired.)

15 THE COURT: All right. Mr. Sharpe, you may
16 present your case.

17 MR. SHARPE: Thank you. I call Mr. Steven
18 Levesque.

19 THE COURT: Come forward again. You are already
20 under oath.

21 STEVEN P. LEVESQUE,
22 having been previously sworn, testifies as follows:

23 FURTHER EXAMINATION

24 BY MR. SHARPE:

25 Q. Mr. Levesque, when you were negotiating this

1 purchase, with whom did you deal?

2 A. Primarily, with Mr. Sanders and the real estate
3 agent.

4 Q. Did you ever negotiate with Mrs. Sanders?

5 A. No.

6 Q. Did you ever negotiate with Sammy Sanders
7 here?

8 A. No.

9 Q. We've talked about the disputed provision in
10 Paragraph 15 of the mortgage. Was that provision
11 supposed to be part of this transaction as you understood
12 it?

13 MR. DODDS: Objection, Your Honor. I think that
14 is violative of the parol evidence rule.

15 THE COURT: I'm going to go ahead and listen to
16 it. We don't have a jury out there. I can go back
17 through and disseminate.

18 MR. DODDS: I understand, Your Honor. Thank
19 you.

20 THE WITNESS: Yes, it was the intent of the
21 parties to have that in there.

22 BY MR. SHARPE:

23 Q. Would you have closed the transaction if that
24 provision had not been in the document?

25 A. No.

1 MR. SHARPE: No further questions, Your Honor.
2 THE COURT: All right. Yes, sir.
3 MR. DODDS: No questions, Your Honor.
4 THE COURT: All right. Thank you. You may step
5 down.
6 Anything further, Mr. Sharpe?
7 MR. SHARPE: Nothing, Your Honor.
8 THE COURT: Any reply testimony?
9 MR. DODDS: No, Your Honor.
10 THE COURT: Here's what I'm going to do. I've
11 got -- of course, there's got to be more research done on
12 the law on this. I'm going to instruct both attorneys to
13 prepare me proposed orders within 15 days and any law you
14 have with that that you would like to submit. I'll make
15 a ruling and then I will sign the order.
16 Thank you, gentlemen.
17 MR. SHARPE: Your Honor, if I may, I know we
18 haven't asked for closing, but just raise two other legal
19 points?
20 THE COURT: Yes, sir.
21 MR. SHARPE: And that is that they testified
22 they had a lawyer to review these documents, Mr. Drew.
23 But more importantly, the complaint is just a suit over
24 the note. There's no allegation of fraud. There's no
25 allegation for reformation to take that provision out.

1 There's no allegation for rescission. There's nothing in
2 the pleading that would reflect, as you phrased it, the
3 slipped-in-there doctrine. I think would normally have
4 been addressed by way of reformation or rescission or form
5 or something. We don't have that in the pleadings.

6 THE COURT: Mr...Dodds.

7 MR. DODDS: Just in response, Your Honor, this
8 is a suit on the promissory note, Your Honor. Just very
9 briefly, Judge, I think the Court was leaning to -- the
10 Court didn't see any ambiguity between the provisions of
11 the note and the provisions of the mortgage. I agree,
12 Your Honor, I don't think the mortgage is ambiguous. I
13 think the mortgage does say nonrecourse.

14 I don't think the note is ambiguous. I think
15 the note is in direct conflict, Your Honor, with the
16 provisions of the mortgage. Even provisions in the
17 mortgage, Judge, are in direct conflict with that
18 nonrecourse provision.

19 And I could cite them for you. The note talks
20 about, you know, payment in accordance with the terms of
21 the note. The Paragraph 13 of the mortgage, for example,
22 it says: This and each of the remedies provided for
23 herein shall be cumulative so that the right of the
24 mortgagee to exercise one or more such remedies shall not
25 be construed to limit or preclude the right of the

1 mortgagee to exercise any other remedy or remedies set
2 forth herein.

3 So, Judge, it just seems to me that these two
4 documents, these two legal documents -- and we don't
5 dispute it's part of the same transaction, Your Honor.
6 And we don't dispute they should be construed together.
7 But what we are saying, Judge, is that when there is a
8 direct conflict between the terms of the note, and you
9 heard him talk about absolute and unconditional, there
10 are provisions in the note about, we are not obligated to
11 pursue any particular collateral, for example. Why would
12 a waiver of an appraisal statute be in the mortgage, Your
13 Honor, if it were a nonrecourse loan? That in and of
14 itself is inconsistent with the provisions of the
15 mortgage.

16 So what we are saying, Judge, is the note is
17 clear. The mortgage is clear. And they are in direct
18 conflict with one another. And the law is real clear and
19 has been since about 1925, Judge, with this decision in
20 Rose vs. Goins, where there is a conflict in the
21 provisions of the note and the mortgage, the note is the
22 instrument that controls.

23 And so our position is that the two documents
24 aren't ambiguous, but they are in direct conflict of one
25 another. And because of that, the Court is compelled to

1 look to the provisions of the note which talk about
2 absolute and unconditional, talks about interest,
3 attorney's fees, et cetera.

4 Thank you, Your Honor.

5 THE COURT: Mr. Sharpe, you said you had three
6 exhibits. Did they go into evidence?

7 MR. SHARPE: Yes, Your Honor.

8 THE COURT: I did not see those.

9 MR. SHARPE: They went in without an objection.

10 THE COURT: Right. That's what I understood. I
11 just want to be sure that y'all got everything in.

12 MR. DODDS: Yes, Your Honor.

13 MR. SHARPE: These were just request for
14 admission to interrogatories about some of the basic
15 facts --

16 THE COURT: That came out.

17 MR. SHARPE: It all came out. Nobody is arguing
18 for a change about the facts.

19 THE COURT: As soon as I get your proposed
20 order, I will rule without undue delay.

21 MR. SHARPE: When would you care to receive
22 those?

23 THE COURT: Fifteen days from now. Let's
24 just -- to end the -- January, let's say, about 15th of
25 February.

1 MR. SHARPE: Thank you, Your Honor.

2 THE COURT: And please send them to my office.

3 MR. DODDS: Yes, sir, Your Honor.

4 MR. SHARPE: Would you like e-mail versions or
5 mail versions?

6 THE COURT: Mail versions would be good.

7 MR. SHARPE: Very good.

8 (Proceedings are concluded.)

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1 CERTIFICATE OF REPORTER

2

3 I, Karen V. Andersen, Registered Merit Reporter
4 certified Realtime Reporter, and Notary Public for the
5 State of South Carolina at Large, do hereby certify that
6 the foregoing transcript is a true, accurate and complete
7 Transcript of Record of the proceedings.

8 I further certify that I am neither related to
9 nor counsel for any party to the cause pending or
10 interested in the events thereof.

11 Witness my hand, I have hereunto affixed my
12 official seal this 13th day of January, 2015, at
13 Charleston, Charleston County, South Carolina.

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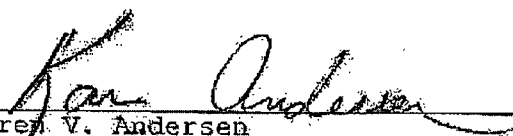
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Karen V. Andersen
Registered Merit Reporter
Certified Realtime Reporter
My Commission expires:
September 14, 2016

041228-0172

FILED: 12/28/2004

J. S. SANDERS COMPANY, L.L.C.

Filing Fee: \$110.00 ORIG

Mark Hammond

South Carolina Secretary of State

RECORDED TO BE A VALID AND CORRECT COPY
 WITHIN THE PUBLIC RECORDS OF THE
 ORIGINAL OR THE INSTRUMENT

DEC 29 2004

STATE OF SOUTH CAROLINA
 SECRETARY OF STATE

JIM MILES

ARTICLES OF ORGANIZATION
 LIMITED LIABILITY COMPANY

RECEIVED BY THE SECRETARY OF STATE
 SOUTH CAROLINA

The undersigned deliver the following articles of organization to form a South Carolina limited liability company pursuant to § 33-44-202 and § 33-44-203 of the 1976 South Carolina Code, as amended.

1. The name of the limited liability company which complies with § 33-44-105 of the South Carolina Code of 1976 as amended is J. S. Sanders Company, L.L.C.

2. The office of the initial designated office of the limited liability company in South Carolina is:

708 St. Andrews Boulevard

(Street Address)

Charleston, South Carolina

(City)

29407

(Zip Code)

3. The initial agent for service of process of the limited liability company is

Lester S. Schwartz, Attorney At Law

(Name)

and the street address in South Carolina for the initial agent for service of process is:

708 St. Andrews Boulevard

(Street Address)

Charleston, South Carolina 29407

(City)

(Zip Code)

4. The name and address of each organizer is:

(a) Schwartz Holdings, L.L.C.

Name

708 St. Andrews Boulevard

(Street Address)

Charleston, South Carolina 29407

(City)

(State)

(Zip Code)

(Add additional lines if necessary)

5. ☒ Check this box only if the company is to be a term company. If so, provide the term specified:

The filing date of these Articles until December 31, 2055.

Articles of Organization

Page 1 of 3



6. ☒ Check this box only if management of the limited liability company is vested in a manager or managers. If this company is to be managed by managers, specify the name and address of each initial manager:

(a) John S. Sanders
(Name)
1060 Fogarty Lane
(Street Address)
Wando, S.C. 29492
(City) (State) (ZipCode)

(b) John S. Sanders, III
Name
1071 Fogarty Lane
(Street Address)
Wando, S.C. 29492
(City) (State) (ZipCode)
(Add additional lines if necessary)

7. ☐ Check this box only if one or more of the members of the company are to be liable for its debts and obligations under Section 33-44-303(c). If one or more members are so liable, specify which members, and for which debts, obligations, or liabilities such members are liable in their capacity as members.

None

8. Unless a delayed effective date is specified, these articles will be effective when endorsed for filing by the Secretary of State. Specify any delayed effective date and time:

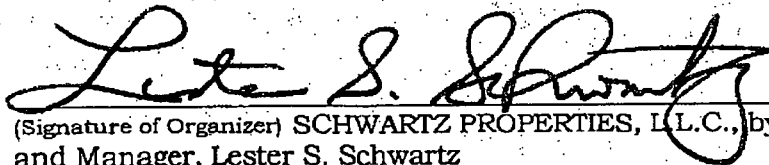
None

9. Set forth any other provisions not inconsistent with law which the organizers determine to include, including any provisions that are required or are permitted to be set forth in the limited liability company operating agreement:

- 9.1. The Manager(s) of the Company shall be authorized and empowered, jointly and/or alone, to execute any and all contracts, instruments, agreements, deeds, mortgages, leases, and/or promissory notes, binding the Company without the signature of any Member of the Company, and/or other Manager of the Company, and third parties may rely upon the signature of the Manager of the Company without further inquiry, and without liability to the Company and/or its Membership. This authorization includes the empowerment to execute any such documents as Manager for the Company, binding the Company in the Company's capacity as a General Partner of a Partnership or as the Manager of another limited liability company.

- 9.2 **Election as a Disregarded Entity; EIN.** Unless and until the Company shall have more than 1 Member, the Company shall be a "disregarded entity" for federal and state tax purposes as to its sole Member, pursuant to IRS Announcement 99-102, 1999-43, I.R.B. 545. As such, its operations and finances shall be treated, for tax purposes only, as those of its sole Member, and it shall not be required to file a separate tax return, and it shall use the Employer Identification Number of its Member.

10. Signature of each organizer:


(Signature of Organizer) SCHWARTZ PROPERTIES, L.L.C., by its Sole Member and Manager, Lester S. Schwartz

Date: December 25, 2004

FILING INSTRUCTIONS

1. File two copies of this form, the original and either a duplicate original or a conformed copy.
2. If space on this form is not sufficient, please attach additional sheets containing a reference to the appropriate paragraph in this form, or prepare this using a computer disk which will allow for expansion of the space on the form.
3. This form must be accompanied by a filing fee of \$110.00 payable to the Secretary Of State.

Form Approved by South Carolina
Secretary Of State Jim Miles, June, 1996

Waterfront Properties, Ltd.



AGREEMENT TO BUY AND SELL REAL ESTATE (FOR GENERAL USE AND LOTS/ACREAGE)

1. PARTIES: This legally binding Agreement entered into on December, 2004
between, Buyer(s), Steven P. Levesque, (hereinafter called "BUYER"), and
Seller(s), Nell Sanders, (hereinafter called "SELLER"). The
property shall be deeded in the name(s) of: _____

2. PROPERTY TO BE SOLD: Subject to terms and conditions herein, Seller agrees to sell and Buyer agrees to buy the following described property with improvements and fixtures thereon:

Lot 10 Block n/a Section n/a Subdivision Awendaw

Address Hwy 17 North

Tax Map # 700-00-00-201 City Awendaw Zip 29492

County of Charleston, State of South Carolina.

3. PURCHASE PRICE shall be Two Hundred fifty thousand dollars, \$250,000.00

4. METHOD OF PAYMENT: Purchase price shall be paid as follows: ☐ Cash; or ☐ Subject to Financing. Financing to be obtained by ☐ Conventional ☒ Seller ☐ VA ☐ FHA ☐ Other terms: Seller Financing

5. EARNEST MONEY: This offer is accompanied by an earnest money deposit of \$5,000.00
Buyer and Seller authorize Waterfront Properties, as Escrow Agent, to hold and disburse earnest money according to the terms of this agreement. Earnest money paid by ☐ Cash, ☒ Check, or ☐ Other. Broker does not guarantee payment of a check or checks accepted as earnest money. All escrow money received shall be deposited as required by South Carolina law and South Carolina Real Estate Commission Rules and Regulations. At the consummation of this sale, the earnest money deposit shall be credited to the buyer.

THE PARTIES UNDERSTAND THAT, UNDER ALL CIRCUMSTANCES, INCLUDING DEFAULT, THE BROKER HOLDING THE EARNEST MONEY DEPOSIT WILL NOT DISBURSE IT TO EITHER PARTY UNTIL BOTH PARTIES HAVE EXECUTED AN AGREEMENT AUTHORIZING THE DISBURSEMENT OR UNTIL A COURT OF COMPETENT JURISDICTION HAS DIRECTED A DISBURSEMENT.

6. LOAN PROCESSING AND APPLICATION: Buyer's obligation under this agreement is contingent on Buyer obtaining said loan. Buyer shall apply for a N/A% loan (loan-to-value ratio) within N/A days from the execution of this Agreement and shall provide Seller with satisfactory loan approval within N/A days. Time is of the essence. Should the Buyer fail to make loan application or receive approval within said period, and to diligently pursue the application, the Seller shall have the option to terminate this Agreement, with written notice. Buyer also agrees to provide all documents or information requested by the lending company in a prompt and timely manner. Buyer will take any action which is needed or requested by Lender to process the loan application. Buyer further hereby gives permission to Lender to disclose pertinent information concerning the Buyer's credit-worthiness or any other information needed for the loan processing to the listing or cooperating broker(s) or agent(s). If Buyer fails to comply with these above conditions, Buyer shall be in default of this agreement subject to the terms of paragraph 16.

FHA Mortgage Insurance ☐ will, ☒ will not be added to the mortgage. VA funding fee ☐ will, ☒ will not be added to the mortgage.

7. WELL, SEPTIC TANK, SEWER AVAILABILITY: It shall be the responsibility of the Buyer to obtain approval from the South Carolina Department of Health and Environmental Control or other proper South Carolina authority prior to closing in the event a well and/or septic tank is needed to be placed on the property.

BUYER ☐ BUYER ☒ SELLER ☐ SELLER HAVE READ THIS PAGE



In the event that the Buyer applies for well or septic tank approval and DHEC or other proper authority denies approval or issues a preliminary opinion showing that the property is not suitable for the installation of a well and/or a conventional septic system suitable for the Buyer's intended home or other structure, then in such event, the Buyer may elect to rescind this Agreement and receive a refund of the earnest money deposit. If the property is capable of being connected to a water and/or sewerage line maintained by a private or public utility for a normal tap fee and at a cost to complete tap not to exceed \$N/A, then in such event, the Buyer shall contract such authority to obtain confirmation that the subject property is properly tapped for water and sewer system or may be tapped into the water and sewerage system.

Seller represents that the property is connected to ☐ public sewer system or to ☐ septic tank or to ☐ public water or to ☐ well system or to ☒ other Septic Permit in place

8. **SURVEY:** Upon the acceptance of this offer, the property shall be surveyed by a licensed surveyor at the expense of the ☐ BUYER ☒ SELLER. The surveyor shall set and flag all property pins, showing encroachments and easements. Property must be N/A x N/A or having at least N/A acres. The survey to be approved in writing by Buyer prior to closing. The purchase price is based upon \$N/A per N/A (acre, sq. ft., or front ft.) and shall be adjusted in accordance with the area set forth in such a survey, if applicable.

9. **CONVEYANCE SHALL BE MADE:** Conveyance shall be made subject to all easements as well as covenants of record (provided they do not make the title unmarketable) and to all governmental statutes, ordinances, rules and regulations. Seller agrees to convey by marketable title and deliver a proper general warranty deed, if applicable, free of encumbrances, except as herein stated. Seller agrees to pay all statutory deed recording fees. The deed shall be delivered at the stipulated place of closing, and transaction closed on or before January 15 or ASAP, 2005, no later than 9:00 p.m. Time is of the essence. Seller and Buyer authorize their respective attorneys and the settlement agent to furnish to Listing Broker and Selling Broker copies of the final HUD-1 settlement statement for the transaction for their review prior to closing.

10. **POSSESSION:** Possession of said property will be given to Buyer on the day of closing. Seller agrees to deliver property free of debris and in a clean condition. Possession by Buyer before closing or by Seller after closing shall be subject to the terms and conditions of a separate agreement to be executed prior to closing or occupancy.

11. **CONDITION OF PROPERTY:** The Seller shall not remove any timber, dirt, minerals or otherwise affect the condition of the property after the signing of this Agreement. All timber, dirt, minerals, etc., shall remain with the property and be a part of the property and be transferred to the Buyer. The Seller shall not bring any trash, refuse, debris, medical or hazardous waste, or other improper materials upon the property. In the event any condemnation proceeding is brought by any governmental authority, agency, utility, etc., prior to the closing, then the Buyer may elect to rescind the agreement.

12. **EXPIRATION OF OFFER:** The offer from Buyer shall be withdrawn at Dec o'clock M on 17, 2005 unless countered or accepted by Seller in written form prior to such time. Time is of the essence.

13. **SPECIAL STIPULATIONS/CONTINGENCIES:** The following stipulations concerning zoning, restrictions, and easements affecting desired use, drainage, hazardous waste, availability of water and sewer, soil test, wetlands study, subordination, lot releases, etc., should be included here. If conflicting with printed matter, the following stipulations shall control (See addendum if applicable) Seller to finance based on \$35,000 down payment and 6% annual interest that will accrue and be added
Contingencies: to the principal balance at payoff which will occur in seven years or before at the buyers option. There will be no penalty for early pay off.

14. **ADJUSTMENTS:** Taxes, water, all sewer assessments, sewer charges, fuel oil, rents as when collected, insurance premiums, if applicable, and other assessments, including homeowner's association fees, shall be adjusted as of the date of closing. Tax prorations pursuant to this Agreement are to be based on the tax information available on the date of closing, and are to be prorated on that basis. **BUYER IS TO BE RESPONSIBLE FOR APPLYING FOR ANY APPLICABLE TAX EXEMPTIONS.** Property taxes and rent, as well as other expenses and income of the property, if applicable, shall be apportioned to the date of closing. Annual expenses or income shall be apportioned using 365 days. Monthly property expenses or income shall be apportioned by the number of days in month of closing. Prorations at closing shall be final.

15. **NON-RESIDENT TAX:** Seller covenants and agrees to comply with the provisions of South Carolina Code Section 12-8-580 (as amended) regarding withholding requirements of sellers who are not residents of South Carolina as defined in the said statute.

16. **ROLLBACK TAXES (IF ANY):** When rollback taxes are subsequently determined and billed to the Buyer, the Seller and Buyer agree that the rollback taxes shall be paid by ☐ Buyer or ☐ Seller.

☒ BUYER ☐ BUYER ☒ SELLER ☐ SELLER HAVE READ THIS PAGE

Form 330
PAGE 2 OF 4

17. **RISK OF LOSS OR DAMAGE:** In case the property herein referred to is destroyed wholly or partially by fire or other casualty prior to delivery of deed, Buyer or Seller shall have the option for ten (10) days thereafter of proceeding hereunder, or of terminating this Agreement.

18. **DEFAULT:** If Buyer or Seller fails to perform any covenant of this Agreement, the other may elect to seek any remedy provided by law, including but not limited to attorney fees and actual costs incurred (as defined in paragraph 19), or terminate this Agreement with a five day written notice. If terminated, both parties shall execute a written release of the other from this contract and both shall agree to hold the Escrow Agent harmless. If either Buyer or Seller refuses to execute release, Escrow Agent will hold the earnest money in trust until said releases are executed or until a court of competent jurisdiction dictates legal disposition.

19. **ACTUAL COST INCURRED** shall include all costs and expenses incurred or obligated for by Buyer, Seller or Broker in an effort to consummate this sale. Such costs shall include, but are not limited to, cost of credit report, appraisal, survey, inspections and reports, title examination, and Broker's fee or commission for this sale.

20. **SURVEY, TITLE EXAMINATION, AND INSURANCE:** The Listing and Cooperating Broker(s) and their Agent(s) recommend that Buyer have a survey of the subject property made, have examination as to the title to the property, obtain owner's title insurance, and that Buyer obtain appropriate hazard insurance coverage effective with the time of closing. All hazard insurance to be canceled and new policies furnished by Buyer at closing unless otherwise stipulated in this Agreement. Flood insurance, if required by Lender at Buyer's option, shall be assigned to Buyer with permission of carrier, and premium prorated to date of closing.

21. **APPRAISED VALUE:** The lot or parcel with building and improvements thereon, if any, must appraise, according to the lender's appraisal or other appraisal as agreed, for the selling price or more or the Seller may elect to sell for the appraised value. In such case, the Buyer agrees to proceed with the consummation of this sale at the reduced price. However, if Seller does not agree to sell at appraised value, the Buyer shall have the option of proceeding with the consummation of the Agreement without regard to the amount of the appraised valuation.

22. **SPECIAL STUDIES AREA, WETLANDS, AND ENVIRONMENTAL PROTECTION MATTERS:** All reports and certifications called for by the lending agencies and any governmental body, by the Buyer concerning any special study area, wetlands or for any environmental protection matter shall be at the expense of the Seller. In the event such studies are wanted or required, the studies must be furnished by the proper parties within N/A days of complete execution of the agreement. The Buyer and Seller must have access to all studies within five (5) days of receipt of the studies. If Buyer fails to meet these deadlines, Buyer is deemed to have waived any and all rights under this paragraph. If the Buyer is not satisfied with the results, the Seller shall have the option of correcting the problem. If the Seller elects not to correct the problem, the Buyer's obligations under this Agreement terminate.

23. **COASTAL TIDELANDS & WETLANDS ACT:** In the event the property is affected by the provisions of the South Carolina Coastal Tidelands & Wetlands Act (Section 48-39-10, et seq., South Carolina Code of Laws), an Addendum will be attached to this Agreement incorporating the required disclosures at ☐ Buyer's ☒ Seller's expense.

24. **DISCLAIMER BY BROKERS AND AGENTS:** The parties acknowledge that the Listing and Cooperating Broker(s) and their Agent(s): (1) Give no guaranty or warranty of any kind, express or implied, as to the physical condition of the property or as to condition of or existence of improvement services or systems, thereto, included but not limited to termite damage, roof, basement, appliances, heating and air conditioning systems, plumbing, sewage, electric systems, and to the structure; (2) Give no warranty, express or implied, as to the merchantability or fitness for a particular purpose as to the property or such improvements thereto and any implied warranty hereby disclaimed; (3) Give no warranty as to title; (4) Give no guaranty on warranty concerning (a) any certification or inspection concerning the condition of the property, (b) any matters which would be reflected by current survey of the property, and (c) the accuracy of the published square footage of the property; (5) Buyer acknowledges that Seller and Seller's Agents have not made any oral or written commitments to Buyer regarding (a) projected income or economic benefit for Buyer from rentals; (b) rental arrangements except that Buyer may rent the unit if Buyer so desires or (c) other economic benefits to the Buyer.

25. **MEDIATION CLAUSE.** Any dispute or claim arising out of or relating to this Agreement, the breach of this Agreement or the services provided in relation to this Agreement, shall be submitted to mediation in accordance with the Rules and Procedures of the Dispute Resolution System of the NATIONAL ASSOCIATION OF REALTORS®. Disputes shall include representations made by the Buyer(s), Seller(s) or any real estate broker or other person or entity in connection with the sale, purchase, financing, condition or other aspect of the property to which this Agreement pertains, including without limitation allegations of concealment, misrepresentation, negligence and/or fraud.

☒ BUYER ☐ BUYER ☒ SELLER ☐ SELLER HAVE READ THIS PAGE

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PAGE 3 OF 4

Any agreement signed by the parties pursuant to the mediation conference shall be binding. The mediation clause shall survive for a period of 120 days after the date of the closing.

The following matters are excluded from mediation hereunder: (a) judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or land contract; (b) an unlawful detainer action; (c) the filing or enforcement of a mechanic's lien; (d) any matter which is within the jurisdiction of a probate court; (e) the filing of a interpleader action to resolve earnest money disputes. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the right to mediate under this provision, nor shall it constitute a breach of the duty to mediate.

26. ENTIRE BINDING AGREEMENT: This written instrument, including the additional terms and conditions set forth on the reverse, expresses the entire agreement and all promises, covenants, and warranties between the Buyer and Seller. It can be changed only by a subsequently written instrument signed by both parties. Both Buyer and Seller hereby acknowledge that they have not received or relied upon any statements or representations by either Broker or their agents which are not expressly stipulated herein. The benefits and obligations shall inure to and bind the parties hereto and their heirs, assigns, successors, executors, or administrators. Whenever used, singular shall include plural, and use of any gender shall include all.

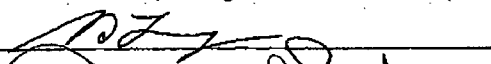
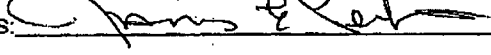
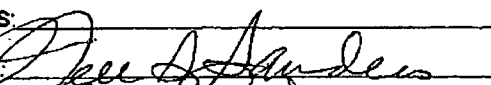
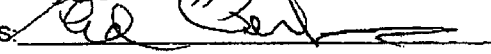
27. SURVIVAL: If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the closing, it shall survive the closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

28. FACSIMILE AND OTHER ELECTRONIC MEANS: The parties agree that the offer, any counteroffer and/or acceptance of any offer or counteroffer may be communicated by use of a fax or other secure electronic means, including but not limited to electronic mail and the internet, and the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

29. EXTENSION AGREEMENT: If the transaction has not closed within the stipulated time limit because a contingency has not been satisfied through no fault of either party, then both parties agree to extend this agreement for a period not to exceed 30 consecutive days from the original closing date. Closing shall occur within this time extension, but in no event shall closing occur later than the above extension date. Time is of the essence.

THIS IS A LEGALLY BINDING AGREEMENT. BOTH BUYER AND SELLER SHALL SEEK FURTHER ASSISTANCE IF THE CONTENTS ARE NOT UNDERSTOOD. BOTH BUYER AND SELLER ACKNOWLEDGE RECEIPT OF A COPY OF THIS AGREEMENT. ALL TERMS AND CONDITIONS OF THIS AGREEMENT DO NOT SURVIVE CLOSING UNLESS OTHERWISE SPECIFIED.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties.

BUYER: 	Date: 12/13/2004	Time: 1805
WITNESS: 	Date: 12/12/04	Time: 1805
BUYER: _____	Date: _____	Time: _____
WITNESS: _____	Date: _____	Time: _____
SELLER: 	Date: 12/18-04	Time: _____
WITNESS: 	Date: _____	Time: _____
SELLER: _____	Date: _____	Time: _____
WITNESS: _____	Date: _____	Time: _____

LISTING AGENT AND COMPANY Ed Perkins

Waterfront Properties, Ltd.

SELLING AGENT AND COMPANY Ed Perkins

Waterfront Properties, Ltd.

ESCROW AGENT ACKNOWLEDGMENT Waterfront Properties, Ltd.

The foregoing form is available for use by the entire real estate industry. The use of the form is not intended to identify the user as a REALTOR®. REALTOR® is the registered collective membership mark which may be used only by real estate licensees who are members of the NATIONAL ASSOCIATION OF REALTORS® and who subscribe to its Code of Ethics. Expressly prohibited is the duplication or reproduction of such form or the use of the name "South Carolina Association of REALTORS®" in connection with any written form without the prior written consent of the South Carolina Association of REALTORS®. The foregoing form may not be edited, revised, or changed without the prior written consent of the South Carolina Association of REALTORS®.

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BK Y520PG478

TITLE NOT SEARCHED

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

TITLE TO REAL ESTATE

Grantee(s) Address: 1060 Fogarty Lane
Wando, South Carolina 29492

WHEREAS, JOHN S. SANDERS, JR. and NELL S. SANDERS, have formed J. S. SANDERS COMPANY, L.L.C., a South Carolina Limited Liability Company, which is treated as a partnership for federal and state income tax purposes; and

WHEREAS, NELL S. SANDERS desires to transfer the property hereinafter described to the said limited liability company pursuant to Section 721(a) of the Internal Revenue Code of 1986 as amended, in exchange for an interest in the Company.

NOW THEREFORE, KNOW ALL MEN BY THESE PRESENTS, THAT I, NELL S. SANDERS, in the State aforesaid, for/and in consideration of the sum of ONE (\$1.00) DOLLAR to her in hand paid at and before the sealing of these presents by the Grantee, J. S. SANDERS COMPANY, L.L.C., a South Carolina Limited Liability Company, in the State aforesaid, the receipt whereof and sufficiency of said consideration is hereby acknowledged, have granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said J. S. SANDERS COMPANY, L.L.C., a South Carolina Limited Liability Company, its successors and assigns, the below described property, to wit:

SEE EXHIBIT A TO THIS TITLE TO REAL ESTATE ATTACHED HERETO AND INCORPORATED HEREIN BY SPECIFIC REFERENCE THERETO, WHICH CONTAINS THE PROPERTY DESCRIPTION.

TMS # 700-00-00-200 & 700-00-00-201

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said J. S. SANDERS COMPANY, L.L.C., a South Carolina Limited Liability Company, its Successors and Assigns forever.



BK Y520PG479

AND the Grantor does hereby bind herself and her Heirs, Successors and Assigns, to warrant and forever defend, all and singular, the said Premises unto the said J. S. SANDERS COMPANY, L.L.C., a South Carolina Limited Liability Company, its Successors and Assigns, against herself and her Heirs and Assigns, and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.

IN WITNESS WHEREOF, the Grantor has hereunto set her Hand and Seal, this 28 day of December, in the year of our Lord two thousand four (2004) and in the two hundred twenty-ninth year (229th) of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Stephanie Guibry
(Witness)

Nell S. Sanders (L.S.)
NELL S. SANDERS

Lester S. Schwartz
(Witness)

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

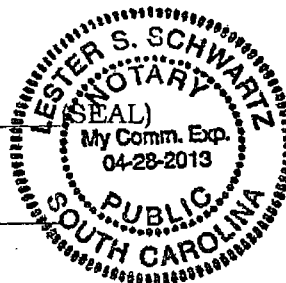
ACKNOWLEDGMENT

THE FOREGOING INSTRUMENT was acknowledged before me this 28
day of December, 2004, by NELL S. SANDERS

SWORN to before me this 28
day of December, 2004.

Lester S. Schwartz
Notary Public for the State of South Carolina

My Commission Expires: 04/29/2013



BK Y520PG480

EXHIBIT A
TO TITLE TO REAL ESTATE

ALL those certain pieces, parcels, or lots of land, with all improvements thereon, situate, lying and being in the state and county aforesaid, known and designated as lots nine (9) and ten (10) on a plat entitled "**FINAL PLAT FOR BRIDLE GATE AT BULLS BAY LANDING PHASE I, LOCATED IN AWENDAW, CHARLESTON COUNTY, S.C.,**" said plat is drawn by Ashley Engineering & Consulting, Inc., dated October 2, 2001, and recorded in the R.M.C. Office for Charleston County in Plat Book EF, Page 124.

TOGETHER with a transferable, alienable, non-exclusive easement for ingress, egress and access over and across the fifty (50') ft. ingress/egress easements shown on said plat.

BEING the same property conveyed to Nell S. Sanders by deed of Awendaw Creek Associates, A General Partnership, dated June 3, 2002, and recorded August 12, 2002, in Deed Book V-414, at Page 022, in the R.M.C. Office for Charleston County.

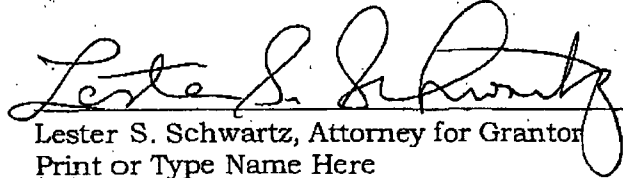
TMS No.'s 700-00-00-200 (LOT 9) & 700-00-00-201 (LOT 10)

BK Y520PG481

STATE OF SOUTH CAROLINA) AFFIDAVIT FOR EXEMPT TRANSFERS
COUNTY OF CHARLESTON)

PERSONALLY appeared before me the undersigned, who being duly sworn, depose and say:

1. I have read the information on the back of this Affidavit and I understand such information.
2. The property being transferred is located at N. Highway 17, Lot 9 Phase 1, Bridal Gate at Bulls Bay Landing, Awendaw, S.C. (TMS 700-00-00-200) & N. Highway 17, Lot 10 Phase 1, Bridal Gate at Bulls Bay Landing, Awendaw, S.C. (TMS 700-00-00-201) was transferred by Nell S. Sanders to J. S. Sanders Company, L.L.C.
3. The deed is exempt from the deed recording fee because: No consideration was paid or will be paid; and transfer is to Partnership. See Exemption #8 (Code Section 12-24-40(8)).
4. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as Grantor's attorney.
5. I understand that a person required to furnish this Affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.


Lester S. Schwartz, Attorney for Grantor
Print or Type Name Here

SWORN to before me this 30th
day of December, 2004.

 (SEAL)
Notary Public for South Carolina

My commission expires: July 16, 2014

RECORDER'S PAGE

This page Must remain with
the original document.



BK Y520PG482

Lester Schwartz
P.O. Box 30356
Charleston SC
(e) 29417

Recording

Fee 10.00

State

Fee

County

Fee

EXEMPT

Postage

TOTAL 10.00

C

FILED

Y520-478

2004 DEC 30 PM 2:53

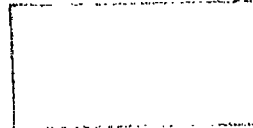
CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

**PID VERIFIED
BY ASSESSOR**

REP JDS

DATE 1/13/05

RECEIVED FROM RMC



REGISTERED BY
GENERAL AUDITOR

U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT SETTLEMENT STATEMENT		B. TYPE OF LOAN:				
		1. ☐ FHA 2. ☐ FmHA 3. ☐ CONV. UNINS. 4. ☐ VA 5. ☐ CONV. INS.				
		6. FILE NUMBER: 6827A JHW			7. LOAN NUMBER:	
		8. MORTGAGE INS CASE NUMBER:				
C. NOTE: <i>This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "POC" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.</i> 1.0 3/98 (6827A JHW, PFD, 6827A JHW/14)						
D. NAME AND ADDRESS OF BORROWER:		E. NAME AND ADDRESS OF SELLER:		F. NAME AND ADDRESS OF LENDER:		
Steven P. Levesque 4068 Harleston Green Lane Mt. Pleasant, SC 29466		J.S. Sanders Company, L.L.C. 1060 Fogarty Lane Charleston, SC 29492				
G. PROPERTY LOCATION:		H. SETTLEMENT AGENT:			I. SETTLEMENT DATE:	
Lot 10, Phase I, Bridle Gate Awendaw, SC 29492 Charleston County, South Carolina		57-0836746 Warren & Sinkler, LLP PLACE OF SETTLEMENT 171 Church Street, Suite 340 Charleston, SC 29401			March 10, 2005	
J. SUMMARY OF BORROWER'S TRANSACTION				K. SUMMARY OF SELLER'S TRANSACTION		
100. GROSS AMOUNT DUE FROM BORROWER:				400. GROSS AMOUNT DUE TO SELLER:		
101. Contract Sales Price 250,000.00				401. Contract Sales Price 250,000.00		
102. Personal Property				402. Personal Property		
103. Settlement Charges to Borrower (Line 1400) 6,817.25				403.		
104.				404.		
105.				405.		
Adjustments For Items Paid By Seller in advance				Adjustments For Items Paid By Seller in advance		
106. City/Town Taxes to				406. City/Town Taxes to		
107. County Taxes to				407. County Taxes to		
108. Assessments to				408. Assessments to		
109.				409.		
110.				410.		
111.				411.		
112.				412.		
120. GROSS AMOUNT DUE FROM BORROWER 256,817.25				420. GROSS AMOUNT DUE TO SELLER 250,000.00		
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:				500. REDUCTIONS IN AMOUNT DUE TO SELLER:		
201. Deposit or earnest money 5,000.00				501. Excess Deposit (See Instructions)		
202. Principal Amount of New Loan(s)				502. Settlement Charges to Seller (Line 1400) 5,992.00		
203. Existing loan(s) taken subject to				503. Existing loan(s) taken subject to		
204.				504. Payoff of first Mortgage		
205.				505. Payoff of second Mortgage		
206.				506. Deposit retained by broker 5,000.00		
207.				507.		
208. Purchase Money Note 215,000.00				508. Purchase Money Note 215,000.00		
209.				509.		
Adjustments For Items Unpaid By Seller				Adjustments For Items Unpaid By Seller		
210. City/Town Taxes to				510. City/Town Taxes to		
211. County Taxes 01/01/05 to 03/11/05 421.27				511. County Taxes 01/01/05 to 03/11/05 421.27		
212. Assessments to				512. Assessments to		
213.				513.		
214.				514.		
215.				515.		
216.				516.		
217.				517.		
218.				518.		
219.				519.		
220. TOTAL PAID BY/FOR BORROWER 220,421.27				520. TOTAL REDUCTION AMOUNT DUE SELLER 226,413.27		
300. CASH AT SETTLEMENT FROM/TO BORROWER:				600. CASH AT SETTLEMENT TO/FROM SELLER:		
301. Gross Amount Due From Borrower (Line 120) 256,817.25				601. Gross Amount Due To Seller (Line 420) 250,000.00		
302. Less Amount Paid By/For Borrower (Line 220) (220,421.27)				602. Less Reductions Due Seller (Line 520) (226,413.27)		
303. CASH (X FROM) (TO) BORROWER 36,395.98				603. CASH (X TO) (FROM) SELLER 23,586.73		


 D 00085
 HUD-1 (2-86) RESPA, HB4305.2

L. SETTLEMENT CHARGES					
700. TOTAL COMMISSION Based on Price	\$ 250,000.00 @ 4.0000 %	10,000.00			
Division of Commission (line 700) as Follows:					
701. \$ 10,000.00 to Waterfront Properties		Less Deposit Retained	5,000.00		
702. \$ to					
703. Commission Paid at Settlement					5,000.00
704. to					
800. ITEMS PAYABLE IN CONNECTION WITH LOAN					
801. Loan Origination Fee	1.0000 % to				
802. Loan Discount	% to				
803. Appraisal Fee	to				
804. Credit Report	to				
805. Lender's Inspection Fee	to				
806. Flood Cert. Fee	to				
807. Tax Service Fee	to				
808. Underwriting Fee					
809. Document Preparation Fee					
810. Bank Counsel Fee					
811.					
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE					
901. Interest From	to @ \$ /day (days %)				
902. MIP Totals for Life of Loan	for months to				
903. Hazard Insurance Premium for	1.0 years to				
904.					
905.					
1000. RESERVES DEPOSITED WITH LENDER					
1001. Hazard Insurance	months @ \$ per month				
1002. Mortgage Insurance	months @ \$ per month				
1003. City/Town Taxes	months @ \$ per month				
1004. County Taxes	months @ \$ per month				
1005. Assessments	months @ \$ per month				
1006.	months @ \$ per month				
1007.	months @ \$ per month				
1008. Aggregate Adjustment	months @ \$ per month				
1100. TITLE CHARGES					
1101. Settlement or Closing Fee	to				
1102. Abstract or Title Search	to Sallie Avise duBuisson			1,025.50	
1103. Title Examination	to				
1104. Title Insurance Binder	to Sequoia Title Agency, Inc.			100.00	
1105. Document Preparation	to Randall J. Drew, Esq.				
1106. Notary Fees	to				
1107. Attorney's Fees	to Warren & Sinkler, LLP			4,023.75	
(includes above item numbers:)					
1108. Title Insurance	to Sequoia Title Agency, Inc.(60%)/Chicago Title(40%)			645.00	
(includes above item numbers:)					
1109. Lender's Coverage	\$				
1110. Owner's Coverage	\$ 250,000.00		845.00		
1111. Mortgage Sat. Processing Fee	Warren & Sinkler, LLP				
1112. UCC Search/Copies/LD Expenses	Warren & Sinkler, LLP				
1113.					
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES					
1201. Recording Fees: Deed \$ 10.00; Mortgage \$ 13.00; Release \$				23.00	
1202. City/County Tax/Stamp: Deed	Mortgage				
1203. State Tax/Stamp: Stamps	925.00; Mortgage			925.00	
1204. Record Easement	to Charleston County Register of Deeds			16.00	
1205. Corr. Deeds/consent to Esmt	to Charleston County Register of Deeds			51.00	
1300. ADDITIONAL SETTLEMENT CHARGES					
1301. Survey	to Robert Frank Surveying			1,000.00	
1302. Pest Inspection	to				
1303.					
1304.					
1305.					
1400. TOTAL SETTLEMENT CHARGES (Enter on Lines 103, Section J and 502, Section K)				6,817.25	5,992.00

By signing page 1 of this statement, the signatories acknowledge receipt of a completed copy of page 2 of this two page statement.

Certified to be a true copy.

Warren & Sinkler, LLP
Settlement Agent

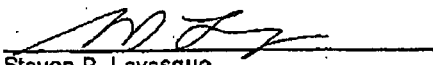
(6827A JHW/6827A JHW/14)

D_00086

ACKNOWLEDGMENT OF RECEIPT OF SETTLEMENT STATEMENT

Borrower: Steven P. Levesque
Seller: J.S. Sanders Company, L.L.C.
Settlement Agent: Warren & Sinkler, LLP
(843)577-0660
Place of Settlement: 171 Church Street, Suite 340
Charleston, SC 29401
Settlement Date: March 10, 2005
Property Location: Lot 10, Phase I, Bridle Gate
Awendaw, SC 29492
Charleston County, South Carolina

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

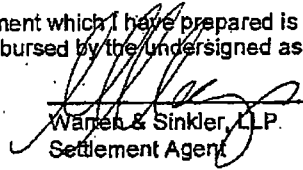

Steven P. Levesque

J.S. Sanders Company, L.L.C.

By: _____

Its: _____

To the best of my knowledge, the HUD-1 Settlement Statement which I have prepared is a true and accurate account of the funds which were received and have been or will be disbursed by the undersigned as part of the settlement of this transaction.


Warren & Sinkler, LLP
Settlement Agent

WARNING: It is a crime to knowingly make false statements to the United States on this or any similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010.

D_00087
HUD-1 (3-86) RESPA, HB4305.2

03-09-05

03:57pm From-

T-527 P.004/010 F-828

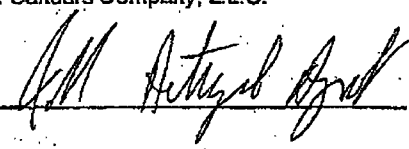
ACKNOWLEDGMENT OF RECEIPT OF SETTLEMENT STATEMENT

Borrower: Steven P. Levesque
Seller: J.S. Sanders Company, L.L.C.
Settlement Agent: Warren & Sinkler, LLP
(843)577-0560
Place of Settlement: 171 Church Street, Suite 340
Charleston, SC 29401
Settlement Date: March 10, 2005
Property Location: Lot 10, Phase I, Bridle Gate
Awendaw, SC 29492
Charleston County, South Carolina

I have carefully reviewed the HUD-1 Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

Steven P. Levesque

J.S. Sanders Company, L.L.C.

By: 

Its: _____

To the best of my knowledge, the HUD-1 Settlement Statement which I have prepared is a true and accurate account of the funds which were received and have been or will be disbursed by the undersigned as part of the settlement of this transaction.

Warren & Sinkler, LLP
Settlement Agent

WARNING: It is a crime to knowingly make false statements to the United States on this or any similar form. Penalties upon conviction can include a fine and imprisonment. For details see: Title 18 U.S. Code Section 1001 and Section 1010.

HUD-1 (REV. 03-01-04) 1001, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089, 1090, 1091, 1092, 1093, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139, 1140, 1141, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1149, 1150, 1151, 1152, 1153, 1154, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 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2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 2680, 2681, 2682, 2683, 2684, 2685, 2686, 2687, 2688, 2689, 2690, 2691, 2692, 2693, 2694, 2695, 2696, 2697, 2698, 2699, 2700, 2701, 2702, 2703, 2704, 2705, 2706, 2707, 2708, 2709, 2710, 2711, 2712, 2713, 2714, 2715, 2716, 2717, 2718, 2719, 2720, 2721, 2722, 2723, 2724, 2725, 2726, 2727, 2728, 2729, 2730, 2731, 2732, 2733, 2734, 2735, 2736, 2737, 2738, 2739, 2740, 2741, 2742, 2743, 2744, 2745, 2746, 2747, 2748, 2749, 2750, 2751, 2752, 2753, 2754, 2755, 2756, 2757, 2758, 2759, 2760, 2761, 2762, 2763, 2764, 2765, 2766, 2767, 2768, 2769, 2770, 2771, 2772, 2773, 2774, 2775, 2776, 2777, 2778, 2779, 2780, 2781, 2782, 2783, 2784, 2785, 2786, 2787, 2788, 2789, 2790, 2791, 2792, 2793, 2794, 2795, 2796, 2797, 2798, 2799, 2800, 2801, 2802, 2803, 2804, 2805, 2806, 2807, 2808, 2809, 2810, 2811, 2812, 2813, 2814, 2815, 2816, 2817, 2818, 2819, 2820, 2821, 2822, 2823, 2824, 2825, 2826, 2827, 2828, 2829, 2830, 2831, 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STATE OF SOUTH CAROLINA }
COUNTY OF CHARLESTON }

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, THAT, J. S. SANDERS COMPANY, L.L.C. ("Grantor") in the State aforesaid; for and in consideration of the sum of **TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00)** to it hand paid at and before the sealing of these presents by **STEVEN P. LEVESQUE**, ("Grantee") in the State aforesaid, the receipt whereof is acknowledged, have granted, bargained, sold and released, and by these Presents does grant, bargain, sell and release unto the said **STEVEN P. LEVESQUE**, his heirs and assigns forever, the following described real property:

SEE EXHIBIT A ATTACHED HERETO

SUBJECT to all restrictions, easements and rights-of-way of record.

TOGETHER with all and singular, the Rights, Members, Hereditaments and Appurtenances to the said Premises belonging, or in anywise incident or appertaining.

TO HAVE AND TO HOLD, all and singular, the said Premises before mentioned unto the said **STEVEN P. LEVESQUE**, his heirs and assigns forever.

AND J. S. SANDERS COMPANY, L.L.C. does hereby bind itself, successors and assigns, to warrant and forever defend, all and singular, the said Premises unto the said **STEVEN P. LEVESQUE**, his heirs and assigns, against it and its successors and assigns, and all persons whomsoever lawfully claiming, or to claim the same or any part thereof.



D_00098

BK 0 528PG477

WITNESS its Hand(s) and Seal(s) this 4 day of March in the year of our Lord Two Thousand Five and in the Two Hundred and Twenty-Ninth year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

J. S. SANDERS COMPANY, LLC

[Signature]
First Witness

[Signature]
By: John S. Sanders, Jr.,
Its Manager

[Signature]
Second Witness

STATE OF SOUTH CAROLINA }
COUNTY OF CHARLESTON }

PERSONALLY APPEARED before me the First Witness, and made oath that (s)he saw the within named J.S. SANDERS COMPANY, LLC by John S. Sanders, Jr., its Manager sign, seal and as his act and deed, deliver the within Deed, and that (s)he, with the other witness witnessed the execution thereof.

[Signature]

SWORN to before me this
4 day of March, 2005

[Signature] (SEAL)
NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: June 12, 2010

D_00099

OK 0 528PG478

EXHIBIT A

ALL those certain pieces, parcels or lots of land, with all improvements thereon, situate, lying and being in the State of South Carolina, County of Charleston, known and designated as LOT 10 on a plat entitled, "FINAL PLAT FOR BRIDLE GATE AT BULLS BAY LANDING PHASE I, LOCATED IN AWENDAW, CHARLESTON COUNTY, S.C." said plat is drawn by Ashley Engineering & Consulting, Inc., dated October 2, 2001 and recorded in the RMC Office for Charleston County in Plat Book EF at page 124.

TOGETHER with a transferrable, alienable, non-exclusive easement for ingress, egress and access over and across the fifty (50) foot ingress/egress easements shown on said plat

BEING the same property conveyed to J. S. Sanders Company, L.L.C. by deed of Nell S. Sanders dated March 4, 2005 and intending to be recorded simultaneously herewith.

TMS# 700-00-00-201

GRANTEE'S ADDRESS: 4068 Harleston Green Lane
Mount Pleasant, SC 29466

D_000100

STATE OF SOUTH CAROLINA }
COUNTY OF CHARLESTON }

AFFIDAVIT

BK 0 528PG479
(Date of Transfer of Title)
{ March
{ February 10, 2005

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this Affidavit and I understand such information.
2. The property is being transferred BY J. S. SANDERS COMPANY, LLC TO STEVEN P. LEVESQUE ON February 10, 2005.
March
3. The DEED is (check one of the following)
 - (a) X subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
 - (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust beneficiary.
 - (c) _____ EXEMPT from the deed recording fee because (exemption # _____).
(Explanation if required) _____
(If exempt, please skip items 4-6, and go to item 7 of this affidavit).
4. Check one of the following if either item 3 (a) or item 3 (b) above has been checked.
 - (a) X The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$250,000.00.
 - (b) _____ The fee is computed on the fair market value of the realty which is \$_____.
 - (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is \$_____.
5. Check YES _____ or NO X to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "YES," the amount of the outstanding balance of this lien or encumbrance is \$_____.
6. The DEED Recording Fee is computed as follows:
 - (a) X the amount listed in item 4 above
 - (b) _____ the amount listed in item 5 above (no amount place zero)
 - (c) _____ Subtract Line 6(b) from Line 6(a) and place the result.
7. As required by Code Section '12-24-70, I state that I am a responsible person who was connected with the transaction as: Grantor.
8. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

Sworn to before me on March 4th 2005

Notary Public for South Carolina

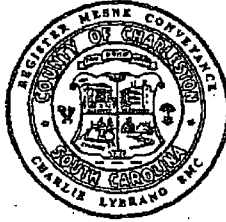
My Commission Expires: June 12, 2010

John S. Sanders Mgr

D_000101

RECORDER'S PAGE

This page Must remain with
the original document.



BK 0 528PG480

WARREN & SINKLER, L.L.P.
P.O. BOX 1254
CHARLESTON, SC 29402

Recording

Fee 10.00

State

Fee 650.00

County

Fee 275.00

Postage

TOTAL 935.00

A

FILED

0528-476

2005 MAR 11 AM 11:55

CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

**PID VERIFIED
BY ASSESSOR**

REP ADS

DATE 3/28/05

RECEIVED FROM RMC

MAR 29 2005

PEGGY A. MOSELEY
CHARLESTON COUNTY AUDITOR

PURCHASE MONEY PROMISSORY NOTE

\$215,000.00

March 10, 2005

FOR VALUE RECEIVED, Steven P. Levesque, ("Borrower"), promises to pay to the order of J. S. Sanders Company, L.L.C. (together with any heirs, subsequent holders, and assigns, "Lender"), at 1060 Fogarty Lane, Wando, SC 29492, or at such other place as Lender may from time to time designate, the principal sum of TWO HUNDRED FIFTEEN THOUSAND AND 00/100 DOLLARS (\$215,000.00), in lawful money of the United States of America, with interest at the rate or rates set forth below. The obligation of Borrower to make the payments of principal and interest hereunder shall be absolute and unconditional, and Borrower hereby irrevocably waives any rights of setoff, recoupment, or reduction as to any amounts due hereunder.

This Note shall bear interest before default at the fixed rate of 6.00% per annum compounded annually.

All principal and interest shall be due on the earlier to occur of (a) March 10, 2012, or (b) the payment in full of a note of even date herewith in the original principal amount of Four Hundred Fifty Thousand and 00/100 Dollars (\$450,000.00) (the "Maturity Date"), which shall be the final maturity date on this Note.

This Note may be prepaid in whole or in part at any time without penalty.

This Note is secured by a Mortgage of even date herewith encumbering certain land located in the Town of Awendaw, County of Charleston, State of South Carolina 29492 and identified by TMS number 700-00-00-201 (the "Mortgage"). The outstanding principal balance hereof, together with all accrued and unpaid interest, shall become immediately due and payable at the option of Lender and collectible without notice or demand, and Lender shall have all the rights and remedies available to her under applicable law and each and every document securing this Note, upon the occurrence of any one or more of the following events, each of which shall constitute an "Event of Default":

(a) The occurrence of an "Event of Default" under and as defined in the Mortgage, the giving of any required notice, and the continuation of such default unremedied beyond any applicable grace period set forth in such Mortgage;

(b) The transfer or assignment by the Borrower of assets for the benefit of any one or more creditors or all or substantially all of his assets except in the ordinary course of business;

(c) Any proceeding is commenced against Borrower under any bankruptcy or insolvency laws and such proceeding is not dismissed within thirty (30) after such commencement; or

(d) The death of Borrower.



Any failure of Lender to accelerate this Note as provided herein shall not constitute a waiver or other bar of the right to exercise the same in the event of any subsequent occurrence of the same or a different event giving rise to such option.

Upon the occurrence of any Event of Default, to the extent permitted by law, the rate of interest on the unpaid principal balance hereof shall, at the option of Lender, be increased to a rate (the "Default Rate") equal to four percent (4.0%) per annum plus the then applicable pre-default interest rate as set forth above. The provisions herein for a Default Rate shall not be deemed to extend the time for any payment hereunder or to constitute a "grace period" giving Borrower a right to cure any default. Failure of Lender at any time to exercise any of the aforesaid options or any other rights of Lender shall not constitute a waiver thereof, nor shall it be a bar to the exercise of any of the aforesaid options or rights at a later date. All rights and remedies of Lender shall be cumulative and may be pursued singularly, successively or together, at the option of Lender.

Borrower hereby (a) waives presentment and demand, protest, notice of dishonor or of acceleration; (b) waives any right to require Lender to retain any collateral securing this Note, or any other liabilities; (c) waives any right to require Lender to resort to exercising any remedies she may have against any other party or collateral securing this Note; (d) agrees and consents to any extension of time for payment or other modification of any term or condition of this Note without limit on the number or duration of such extensions or modifications; (e) agrees that Lender may exchange, substitute, swap, release, reduce, or otherwise permit the disposal of any collateral securing this Note; (f) agrees that, after the occurrence of an Event of Default, Lender may compromise or receive less than the full amount due on or value of any collateral and grant any other indulgence to any party primarily or secondarily liable with respect to this Note; and (g) acknowledges that the liability of each party liable hereon is joint and several with all other parties in the same capacity. All waivers and consents herein are given without notice, without liability to Lender and without affecting the liability of any party primarily or secondarily liable with respect to this Note. By this paragraph, Borrower intends to provide Lender with legal remedies which are in addition to and not in lieu of any other rights or remedies provided by law, all of which rights and remedies are cumulative and exercisable simultaneously or consecutively in any order without being deemed to have been waived for any reason.

Borrower understands and agrees that Lender may institute suit to collect amounts outstanding under this Note without seeking recourse to any of the collateral, and the failure of Lender to pursue the collateral shall in no way diminish or affect Borrower's liability hereunder.

Borrower agrees to pay all costs and expenses of collection (including reasonable attorneys' fees) when incurred by Lender, and all costs and expenses (including reasonable attorneys' fees) incurred by Lender in exercising or preserving any rights or remedies hereunder or in connection with the enforcement of this Note. Without limiting generality of the foregoing, Borrower agrees to pay all costs and expenses (including reasonable attorneys' fees) incurred by Lender in connection with any action to enforce this Note, or incurred by Lender in connection with the bankruptcy of Borrower.

Whenever possible, each provision of this Note shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision or portion of this Note shall be

prohibited by or invalid under such law, such provision or portion shall be ineffective to the extent of such prohibition or invalidity but without invalidating the remainder of such provision or portion or the remaining provisions or portions of this Note.

Notwithstanding anything herein to the contrary, if any interest rate calculated hereunder would exceed the applicable usury rate such interest rate shall be deemed to be reduced to the highest permissible rate, and all payments of interest in excess thereof shall be deemed to be partial prepayments of principal accepted without penalty or premium.

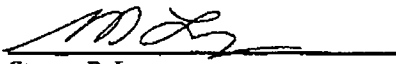
This Note is governed by and to be construed in accordance with the laws of the State of South Carolina. This Note is intended to be and shall be construed as an instrument under seal.

TO THE EXTENT NOW OR HEREAFTER PERMITTED BY LAW, BORROWER WAIVES TRIAL BY JURY WITH RESPECT TO ANY ACTION, CLAIM, SUIT OR PROCEEDING ON OR ARISING OUT OF THIS NOTE, THE OBLIGATIONS EVIDENCED HEREBY, AND ANY DOCUMENTS OR INSTRUMENTS EVIDENCING OR SECURING THIS NOTE OR SUCH OBLIGATIONS. ANY LITIGATION ARISING HEREUNDER OR RELATED HERETO MAY BE TRIED BY THE SOUTH CAROLINA COURTS OR THE FEDERAL COURTS OF SOUTH CAROLINA, AND BORROWER HEREBY CONSENTS TO THE JURISDICTION OF SUCH COURTS.

WAIVER OF APPRAISAL RIGHTS

The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty (30) days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. Pursuant to Section 29-3-680 of the Code of Laws of South Carolina, **THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY.** The Borrower specifically acknowledges and affirms his waiver of appraisal rights as evidenced by his signature below.

IN WITNESS WHEREOF, the Borrower has hereunto caused this Note to be executed in his name and his seal affixed hereto as of the date first written above.


Steven P. Levesque

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON) PURCHASE MONEY MORTGAGE

THIS PURCHASE MONEY MORTGAGE ("Mortgage") made and entered into the 10th day of March, 2005, by and between Steven P. Levesque, whose address is 4068 Harleston Green Lane, Mount Pleasant, SC 29466 (hereinafter referred to as the "Mortgagor"), and J. S. Sanders Company, L.L.C., whose address is 1060 Fogarty Lane, Wando, SC 29492, (hereinafter referred to as the "Mortgagee");

WHEREAS, Mortgagor is indebted to Mortgagee for the unpaid purchase price of the real property subject to this Mortgage and a separate and additional Purchase Money Mortgage as to real property in Charleston County, South Carolina to evidence which, Mortgagor has executed and delivered to Mortgagee a Note of even date herewith, in the principal sum of TWO HUNDRED FIFTEEN THOUSAND AND 00/100 DOLLARS (\$215,000.00) payable to the order of Mortgagee at 1060 Fogarty Lane, Wando, SC 29492, or at such other place as the holder hereof may designate in writing, said principal sum being payable as set forth in said Note with interest at the rate set forth therein, to which Note reference is hereby made:

NOW, THEREFORE, Mortgagor in consideration of the aforesaid debt, and for the purpose of securing (1) payment of said indebtedness as in said Note provided, including future advances, and any and all modifications, amendments, renewals and/or extensions thereof, (2) payment of all other moneys secured hereby and (3) the performance of all the covenants, conditions, stipulations and agreements herein contained does by these presents, grant, bargain, sell and release unto the said J. S. Sanders Company, L.L.C., its successors and assigns, the following described property situated in Charleston County, South Carolina:

SEE EXHIBIT "A" ATTACHED HERETO
 FOR A DESCRIPTION OF THE PROPERTY

TOGETHER, with all rights, privileges, interests, easements, tenements, hereditaments and appurtenances thereto belonging, and the rents, issues and profits thereof, and any and all improvements and fixtures now or subsequently attached to or used in connection with the mortgaged premises.

TO HAVE AND TO HOLD, all and singular the said premises, unto the Mortgagee, its successors and assigns forever.

AND the Mortgagor covenants with the Mortgagee that the Mortgagor is indefeasibly seized of a good and marketable fee simple title to said land and has good and lawful authority to mortgage said land; that the Mortgagor hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever claiming by, through or under him; and that said land is free and clear of all encumbrances except: (1) Taxes for the year 2005 and subsequent years, constituting a lien, but not yet due and payable, and (2) such other matters as existing at the time of transfer of title from the Mortgagee to the Mortgagor.

CERTIFIED TRUE COPY
 CHARLIE LYBRAND
 REGISTER MESNE CONVEYANCE
 CHARLESTON COUNTY, SC

DATE: 11-19-2013
 BY: Charlie Lybrand
JPL



PROVIDED, ALWAYS, that if said Mortgagor shall pay unto the said Mortgagee the certain Purchase Money Note of even date herewith made by the Mortgagor in favor of the Mortgagee in the principal amount of TWO HUNDRED FIFTEEN THOUSAND AND 00/100 DOLLARS (\$215,000.00), (hereinafter referred to as the "Note") and by its terms expressly secured by this Mortgage; AND if the Mortgagor shall duly, promptly and fully perform, discharge, execute, effect, complete and comply with and abide by each and every of the stipulations, agreements, conditions and covenants of the Note and this Mortgage, then this Mortgage and all assignments contained herein shall cease and be null and void; otherwise to remain in full force and effect.

AND the Mortgagor does hereby expressly covenant and agree:

1. To pay the Note in accordance with its terms promptly as the principal and interest thereon shall become due.
2. To pay all taxes, assessments and public charges already levied or assessed or that may hereafter be levied or assessed upon or against said land and premises or against any personal property herein conveyed, when due and payable according to law, before they become delinquent, and before any interest or penalty shall attach.
3. Not to do or permit waste on said premises without the consent of Mortgagee nor to do or permit any other act whereby the property hereby conveyed shall become less valuable.
4. Should the Mortgagor fail to make payment of any taxes, assessments or public charges before they become delinquent, or before any interest or penalty shall attach, or of any insurance premiums or other charges payable by Mortgagor, then the Mortgagee may make payments of the same. In case of such payments by the Mortgagee, the Mortgagor agrees to reimburse the Mortgagee on demand, and the amounts so paid, with interest thereon at the rate set forth in the Note, which shall be added to and become part of the debt secured by these presents. Such payment by the Mortgagee shall not constitute a waiver of any right arising from a breach of any of the covenants set forth herein. The lien of this Mortgage shall secure the payment of any such sums paid by the Mortgagee to the same extent that it secures payment of the Note.
5. Any sums which shall not be paid when due, whether maturing by lapse of time or by reason of acceleration under the provisions of the Note and whether principal, interest or money owing for advancements by the holder pursuant to the terms of this Mortgage, shall bear interest at the rate set forth in the Note until paid.
6. That in the event that said Note is placed in the hands of an attorney for collection, or in case the Mortgagee has become a party either as plaintiff or as defendant in any suit or legal proceeding in relation to the property described or the lien created herein, or for the recovery or protection of said indebtedness, the Mortgagor will repay on demand all reasonable costs and expenses arising therefrom, with interest at the rate set forth in the Note until paid, all of which sums, if unpaid, shall be added to and become a part of the debt secured by these presents.

7. That the Mortgagee, without notice, and as often as he wishes to, may agree with any party obligated on said indebtedness, or having an interest in the security described herein, to renew or extend the time for payment of any part or all of the indebtedness secured hereby, without in any way affecting either the lien hereof or the liability of any other party.

8. The term event of default, wherever used in this Mortgage, shall mean any one or more of the following events:

(a) Failure by the Mortgagor to pay as and when due and payable, including by acceleration, any installment of principal and/or interest, or failure to pay taxes or insurance before they become delinquent or incur any interest or penalty.

(b) Failure by the Mortgagor to duly observe any other covenant, condition or agreement of the Note or of this Mortgage or any other mortgage given to secure the Note secured hereby or of any other instrument given to secure payment of said Note within thirty (30) days after written notice by Mortgagee to Mortgagor of such failure.

(c) The filing by the Mortgagor of a voluntary petition in bankruptcy or the Mortgagor's adjudication as a bankrupt or insolvent, or the filing by the Mortgagor of any petition or answer seeking or acquiescing in any relief for himself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency, or other relief for debtors, or the Mortgagor's seeking or consenting to or acquiescence in the appointment of any trustee, or receiver of the Mortgagor or of all or any substantial part of the premises or of any or all the rents, revenues, issues, earnings, profits, or income thereof, or the making of any general assignment for the benefit of creditors, or the admission in writing of his inability to pay his debts generally as they become due.

9. If an event of default shall occur and be continuing after the expiration of any applicable notice period, if no cure has been effected, all of the indebtedness secured hereby shall become and be immediately due and payable at the option of the Mortgagee, without further notice or demand, which are hereby expressly waived, and the Mortgagee may proceed to foreclose this Mortgage or otherwise pursue any right or remedy herein or by law provided.

10. It is agreed that nothing herein contained nor any transaction related thereto shall be construed or so operate as to require the Mortgagor to pay interest at a rate greater than it is now lawful in such case to contract for, or to make any payment or to do any act contrary to laws, that if any clauses or provisions herein contained operate or would prospectively operate to invalidate this Mortgage or the Note in whole or in part, then such clauses and provisions only shall be held for naught, as though not herein contained, and the remainder of this Mortgage shall remain operative and in full force and effect.

11. The Mortgagee shall be entitled to receive and recover the entire award made in any eminent domain proceedings to the extent that the same does not exceed the amount necessary to pay in full all outstanding sums secured by the lien of this Mortgage. Mortgagor shall be entitled to join in any such proceedings and to receive and recover any amount of such award in excess of the amount necessary to pay in full all outstanding sums

secured by the lien of this Mortgage.

12. The Mortgagor hereby covenants and agrees that the sale of all or any portion of the real property encumbered hereby, whether voluntarily or by operation of law, shall constitute an event of default under the terms of this Mortgage and entitle the Mortgagee to accelerate all sums due on account of the Note secured hereby.

13. This instrument is to be governed by and construed in accordance with the laws of the State of South Carolina and each of the remedies provided for herein shall be cumulative so that the right of the Mortgagee to exercise one or more of such remedies shall not be construed to limit or preclude the right of the Mortgagee to exercise any other remedy or remedies set forth herein.

14. No delay by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by law, shall operate as a waiver thereof or preclude the exercise thereof during the continuance of any default hereunder.

15. Mortgagor and Mortgagee agree that Mortgagee's recourse of payment of Mortgagor's obligations under the Note secured by this Purchase Money Mortgage are limited to the real property mortgaged under this Mortgage. Under no circumstance shall the Mortgagee or any other person or entity have any other recourse to or claim for payment of such obligations against the Mortgagor except with respect to fraud or willful misconduct.

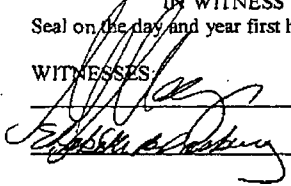
16. The covenants herein contained shall bind, and the benefits and advantages shall inure to the respective heirs, executors, administrators, successors and assigns of the parties hereto. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

[The remainder of this page left intentionally blank.]

17. WAIVER OF APPRAISAL RIGHTS. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty (30) days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. Pursuant to Section 29-3-680 of the Code of Laws of South Carolina, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY. The Mortgagor specifically acknowledges and affirms his waiver of appraisal rights as evidenced by his signature below.

IN WITNESS WHEREOF, the Mortgagor hereto has hereunto set his Hand and Seal on the day and year first hereinabove written.

WITNESSES

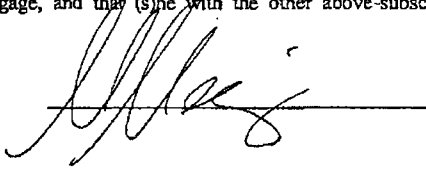


 Steven P. Levesque

BK P 528PG624

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

PERSONALLY appeared before me the undersigned witness who, being duly sworn, deposes and says that (s)he saw the within named Steven Levesque sign, seal, and by his act and deed, deliver the within written Mortgage, and that (s)he with the other above-subscribed witness witnessed the execution thereof.



SWORN to before me this
10 day of March, 2005.

 (L.S.)
Notary Public for South Carolina
My Commission Expires: 7-13-08

EXHIBIT "A"

ALL that certain lot, piece, or parcel of land situate, lying and being in the Town of Awendaw, County of Charleston, State of South Carolina, shown and designated as Lot 10, Bridle Gate [Bridal Gate], on that certain plat by Ashley Engineering & Consulting, Inc., dated October 2, 2001, and recorded in the RMC Office for Charleston County, S.C. (the "RMC Office") on October 16, 2001, in Book EF at page 124 (the "Plat"), said lot having such size, shape, dimensions, buttings and boundings as will by reference to said plat more fully and at large appear.

TOGETHER WITH a non-exclusive, perpetual, permanent, transferable, commercial easement appurtenant for access, ingress and egress, and utilities from U.S. Highway 17N to and adjoining Lot 10, over those properties now or formerly of Kay P. Curry shown as Lot 2, Lot 3, Lot 4, and Lot 5, and designated as "Bridle Gate Trail 100' Private Ingress/Egress Easement", "Seattle Slew Lane 50' Private Ingress/Egress Easement (25' E.S.)", and "Lady's Secret Lane 50' Private Ingress/Egress Easement", all as shown on that certain plat by Ashley Engineering & Consulting, Inc., dated December 1, 2003, and recorded March 11, 2004, in Plat Book EG at page 947 (the "Easement Plat") in the RMC Office which is to run with the land for the use and benefit of the owners of Lot 10, their heirs, successors and assigns.

This is the same property conveyed by J.S. Sanders Company, L.L.C., to Steven P. Levesque by deed dated March 4, 2005, and recorded simultaneously herewith.

TMS Number: 700-00-00-201

BK P 528PG626

WARREN & SINKLER, L.L.P.
P.O. BOX 1254
CHARLESTON, SC 29402

FILED

7528-619

2005 MAR 11 AM 11:55

CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

13 W
A

APPRAISAL REPORT OF

Vacant Residential Lot

7591 Lady Secret Lane

Awendaw, SC 29429

AS OF

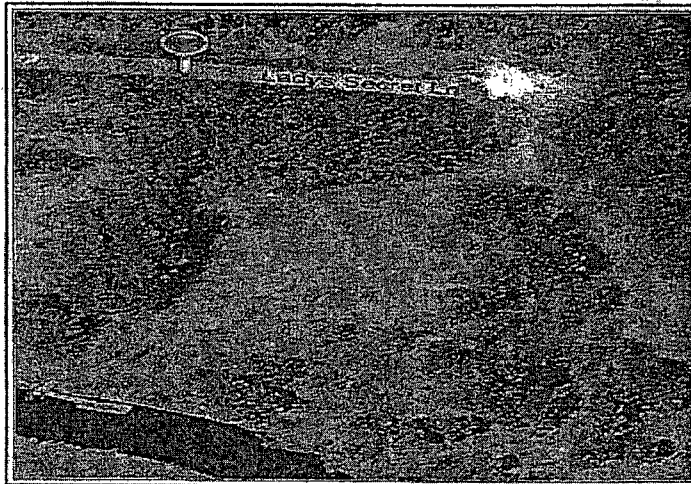
March 12, 2012

PREPARED FOR

Mr. Steven P. Levesque
4068 Haffelson Green Lane
Mount Pleasant, SC 29486

PREPARED BY

Hartnett Realty Co., Inc.
Thomas F. Hartnett, Jr.
134 Meeting Street, Suite 120
Charleston, SC 29401



D_000121

Hartnett Realty Co., Inc.
134 Meeting Street, Suite 120
Charleston, SC 29401
FAX (843) 723-3403

March 14, 2012

Mrs. Andrew Hawkins
210 Wendlelea Drive
Mount Pleasant, SC 29464

RE: Steven P. Levesque
7581 Lady Secret Lane
Awendaw, SC 29429
File No. TFH2012-024
Case No. Levesque

Dear Mr. Levesque,

In accordance with your request, I have personally inspected and prepared an appraisal report of the real property located at:

7581 Lady Secret Lane, Awendaw, SC 29429

The purpose of this appraisal is to estimate the market value of the property described in the body of this appraisal report.

Enclosed, please find the appraisal report which describes certain data gathered during our investigation of the property. The methods of approach and reasoning in the valuation of the various physical and economic factors of the subject property are contained in this report.

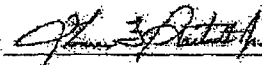
An inspection of the property and a study of pertinent factors, including valuation trends and an analysis of neighborhood data, led the appraiser to the conclusion that the market value, as of March 12, 2012 is:

\$ 230,000

The opinion of value expressed in this report is contingent upon the limiting conditions attached to this report.

It has been a pleasure to assist you. If I may be of further service to you in the future, please let me know.

Respectfully submitted,

Signature: 

Thomas F. Hartnett, Jr.
SC Certified General Real Estate Appraiser #CG5005

D_000122

LAND APPRAISAL REPORT

Case No. Leveague

17-000123

HARTNETT REALTY COMPANY
SUBJECT PHOTO ADDENDUM

File No. TRH2012-024
Case No. Levesque

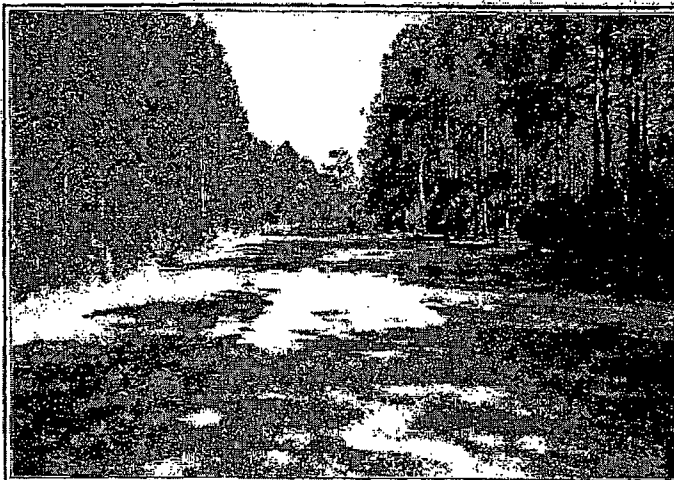
Property: Vacant Residential Lot at:					
Property Address: 7581 Lady Secret Lane					
City: Awendaw	County: Charleston	State: SC	Zip Code: 29429		
Listing Agent: Mr. Steven P. Levesque	Address: 4066 Harleston Green Lane, Mount Pleasant, SC 29466				



FRONT OF
SUBJECT PROPERTY
7581 Lady Secret Lane
Awendaw, SC 29429



REAR OF
SUBJECT PROPERTY
Subject Dock & Creek View



STREET SCENE

D_000124

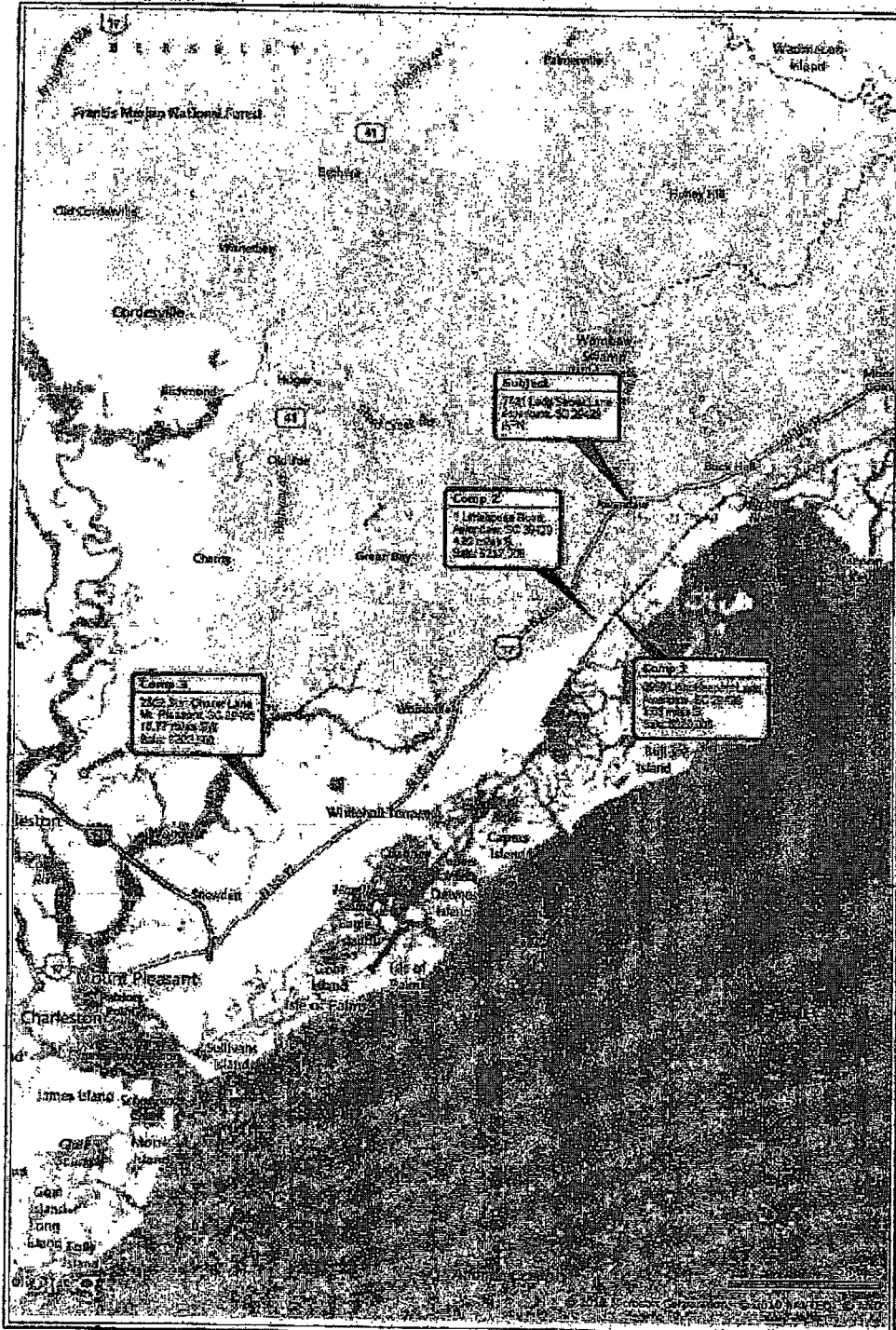
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Page 4 of 44

HARTNETT REALTY COMPANY
LOCATION MAP ADDENDUM

File No. TFH2012-023
Case No. Levesque

Broker: Steven P. Levesque
Property Address: 7581 Lady Secret Lane
City: Awendaw County: Charleston State: SC Zip Code: 29429
Listing Clerk: Mr. Steven P. Levesque Address: 4088 Charleston Green Lane, Mount Pleasant, SC 29466



D_000125

HARTNET REALTY COMPANY
PLAT MAP

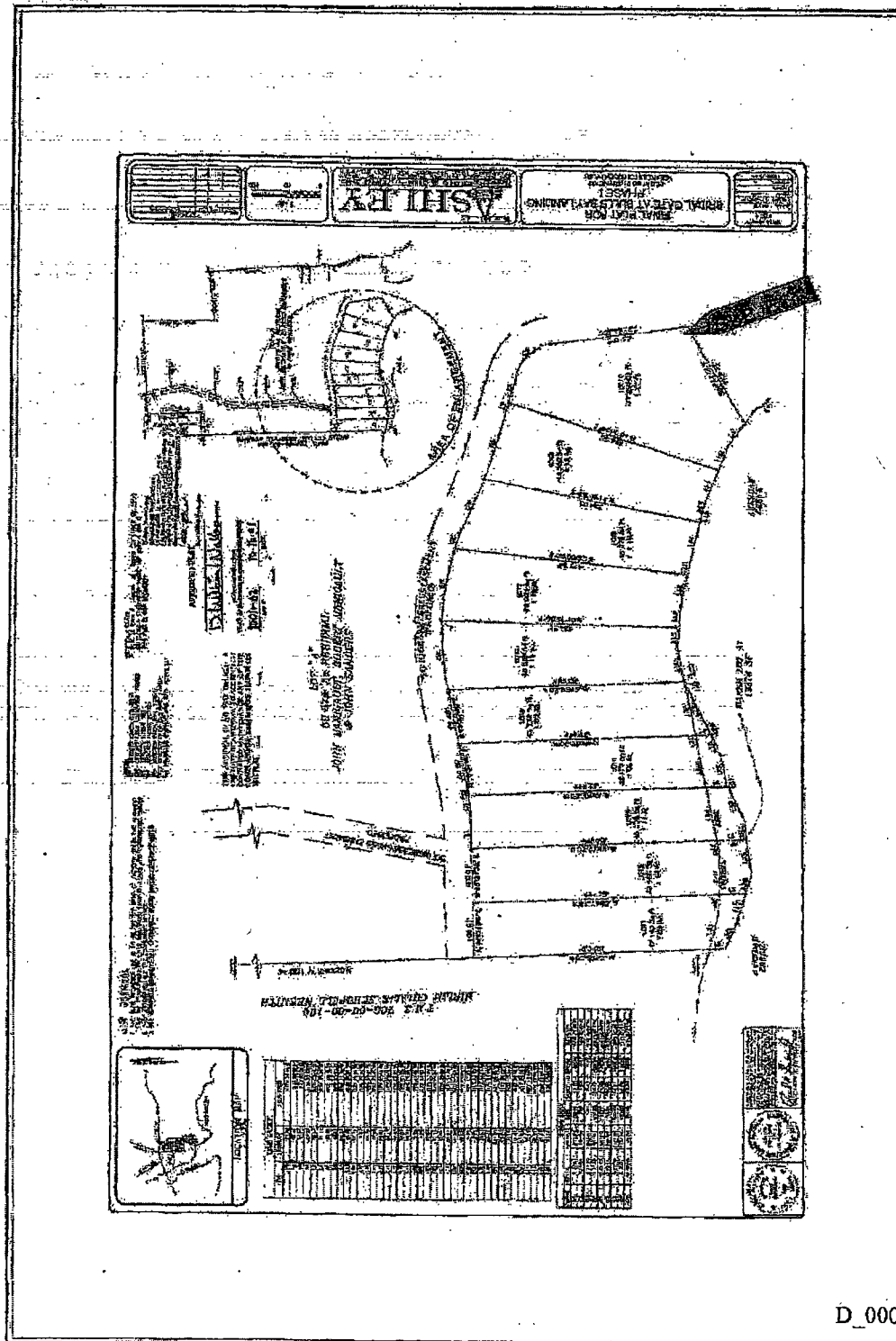
File No. TFH2012-024
 Case No. Levesque

Owner: Steven P. Levesque

Property Address: 7581 Lady Seagrass Lane

City: Awendaw County: Charleston State: SC Zip Code: 29429

Listing Agent: Mr. Steven P. Levesque Address: 4066 Charleston Green Lane, Mount Pleasant, SC 29466



D_000126

Charleston County Tax Map of Subject Property

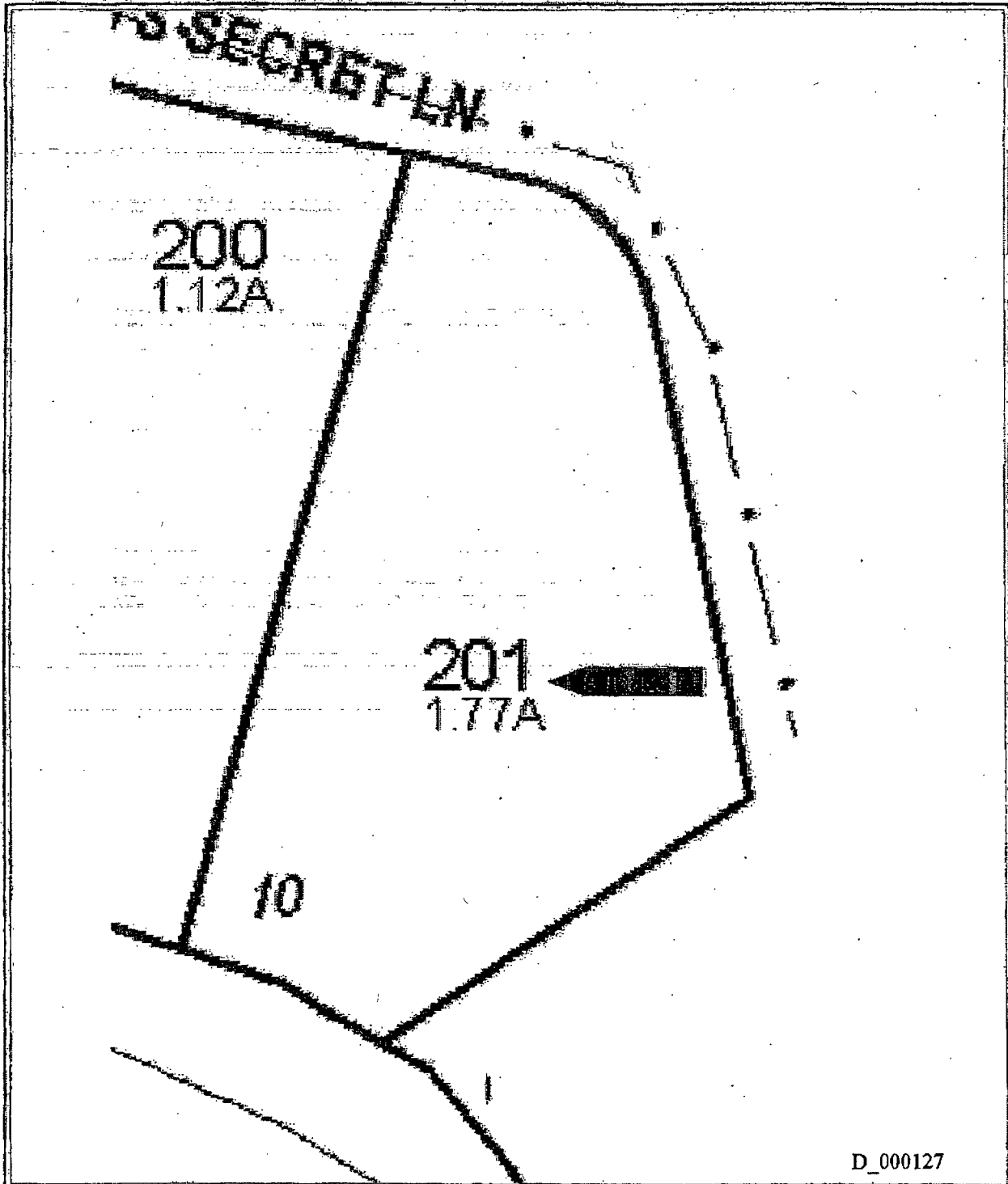
File No: TFR2012-024
Case No: Levesque

Borrower Steven P. Levesque

Property Address 7581 Lady Secret Lane

City Awendaw County Charleston State SC Zip Code 29429

Lender/Client Mr. Steven P. Levesque Address 4068 Harleston Green Lane, Mount Pleasant, SC 29466



HARTNETT REALTY COMPANY
FLOOD MAP ADDENDUM

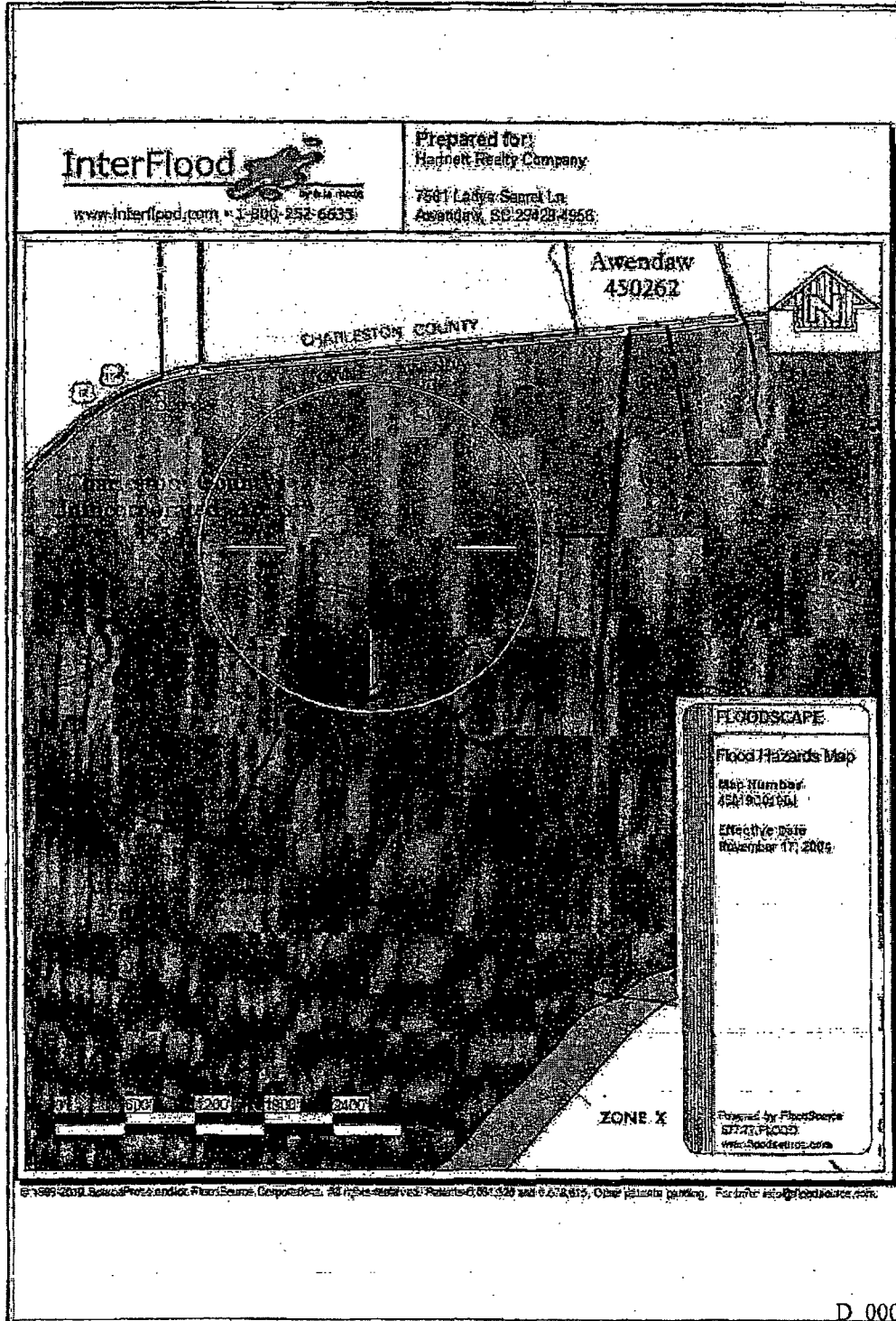
File No. TFM2012-024
Case No. Levesque

Borrower: Steven P. Levesque

Property Address: 7681 Lady Sarah Lane

City: Awendaw County: Charleston State: SC Zip Code: 29429

Lender/Client: Mr. Steven P. Levesque Address: 4088 Harleston Green Lane, Mount Pleasant, SC 29468



D 000 28

This appraisal report is subject to the scope of work, intended use, intended user, definition of market value, statement of assumptions and limiting conditions, and certifications. The appraiser may expand the scope of work to include any additional research or analysis necessary based on the complexity of this appraisal assignment.

SCOPE OF WORK: The scope of work for this appraisal is defined by the complexity of this appraisal assignment and the reporting requirements of this appraisal report form, including the following definition of market value, statement of assumptions and limiting conditions, and certifications. The appraiser must, at a minimum: (1) perform a complete visual inspection of the subject property, (2) inspect the neighborhood, (3) inspect each of the comparable sales from at least the street, (4) research, verify, and analyze data from reliable public and/or private sources, and (5) report his or her analysis, opinions, and conclusions in this appraisal report.

DEFINITION OF MARKET VALUE: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby: (1) buyer and seller are typically motivated; (2) both parties are well informed or well advised, and each acting in what he or she considers his or her own best interest; (3) a reasonable time is allowed for exposure in the open market; (4) payment is made in terms of cash in U. S. dollars or in terms of financial arrangements comparable thereto; and (5) the price represents the normal consideration for the property sold unaffected by special or creative financing or sales concessions* granted by anyone associated with the sale.

*Adjustments to the comparables must be made for special or creative financing or sales concessions. No adjustments are necessary for those costs which are normally paid by sellers as a result of tradition or law in a market area; these costs are readily identifiable since the seller pays these costs in virtually all sales transactions. Special or creative financing adjustments can be made to the comparable property by comparisons to financing terms offered by a third party institutional lender that is not already involved in the property or transaction. Any adjustment should not be calculated on a mechanical dollar for dollar cost of the financing or concession but the dollar amount of any adjustment should approximate the market's reaction to the financing or concessions based on the appraiser's judgment.

STATEMENT OF ASSUMPTIONS AND LIMITING CONDITIONS: The appraiser's certification in this report is subject to the following assumptions and limiting conditions:

1. The appraiser will not be responsible for matters of a legal nature that affect either the property being appraised or the title to it, except for information that he or she became aware of during the research involved in performing this appraisal. The appraiser assumes that the title is good and marketable and will not render any opinions about the title.
2. The appraiser has examined the available flood maps that are provided by the Federal Emergency Management Agency (or other data sources) and has noted in this appraisal report whether any portion of the subject site is located in an identified Special Flood Hazard Area. Because the appraiser is not a surveyor, he or she makes no guarantees, express or implied, regarding this determination.
3. The appraiser will not give testimony or appear in court because he or she made an appraisal of the property in question, unless specific arrangements to do so have been made beforehand, or as otherwise required by law.
4. The appraiser has noted in this appraisal report any adverse conditions (such as the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he or she became aware of during the research involved in performing this appraisal. Unless otherwise stated in this appraisal report, the appraiser has no knowledge of any hidden or unapparent deficiencies or adverse conditions of the property (such as, but not limited to, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) that would make the property less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, this appraisal report must not be considered as an environmental assessment of the property.

D 000129

APPRAISER'S CERTIFICATION: The Appraiser certifies and agrees that:

1. I have, at a minimum, developed and reported this appraisal in accordance with the scope of work requirements stated in this appraisal report.
2. I performed a complete visual inspection of the subject property.
3. I performed this appraisal in accordance with the requirements of the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.
4. I developed my opinion of the market value of the real property that is the subject of this report based on the sales comparison approach to value. I have adequate comparable market data to develop a reliable sales comparison approach for this appraisal assignment. I further certify that I considered the cost and income approaches to value but did not develop them, unless otherwise indicated in this report.
5. I researched, verified, analyzed, and reported on any current agreement for sale for the subject property, any offering for sale of the subject property in the twelve months prior to the effective date of this appraisal, and the prior sales of the subject property for a minimum of three years prior to the effective date of this appraisal, unless otherwise indicated in this report.
6. I researched, verified, analyzed, and reported on the prior sales of the comparable sales for a minimum of one year prior to the date of sale of the comparable sale, unless otherwise indicated in this report.
7. I selected and used comparable sales that are locationally, physically, and functionally the most similar to the subject property.
8. I have reported adjustments to the comparable sales that reflect the market's reaction to the differences between the subject property and the comparable sales.
8. I verified, from a disinterested source, all information in this report that was provided by parties who have a financial interest in the sale of the subject property.
10. I have knowledge and experience in appraising this type of property in this market area.
11. I am aware of, and have access to, the necessary and appropriate public and private data sources, such as multiple listing services, tax assessment records, public land records and other such data sources for the area in which the property is located.
12. I obtained the information, estimates, and opinions furnished by other parties and expressed in this appraisal report from reliable sources that I believe to be true and correct.
13. I have taken into consideration the factors that have an impact on value with respect to the subject neighborhood, subject property, and the proximity of the subject property to adverse influences in the development of my opinion of market value. I have noted in this appraisal report any adverse conditions (such as, the presence of hazardous wastes, toxic substances, adverse environmental conditions, etc.) observed during the inspection of the subject property or that I became aware of during the research involved in performing this appraisal. I have considered these adverse conditions in my analysis of the property value, and have reported on the effect of the conditions on the value and marketability of the subject property.
14. I have not knowingly withheld any significant information from this appraisal report and, to the best of my knowledge, all statements and information in this appraisal report are true and correct.
15. I stated in this appraisal report my own personal, unbiased, and professional analysis, opinions, and conclusions, which are subject only to the assumptions and limiting conditions in this appraisal report.
16. I have no present or prospective interest in the property that is the subject of this report, and I have no present or prospective personal interest or bias with respect to the participants in the transaction. I did not base, either partially or completely, my analysis and/or opinion of market value in this appraisal report on the race, color, religion, sex, age, marital status, handicap, familial status, or national origin of either the prospective owners or occupants of the subject property or of the present owners or occupants of the properties in the vicinity of the subject property or on any other basis prohibited by law.
17. My employment and/or compensation for performing this appraisal or any future or anticipated appraisals was not conditioned on any agreement or understanding, written or otherwise, that I would report (or present analysis supporting) a predetermined specific value, a predetermined minimum value, a range or direction in value, a value that favors the cause of any party, or the attainment of a specific result or occurrence of a specific subsequent event.
18. I personally prepared all conclusions and opinions about the real estate that were set forth in this appraisal report. If I relied on significant real property appraisal assistance from any individual or individuals in the performance of this appraisal or the preparation of this appraisal report, I have named such individual(s) and disclosed the specific tasks performed in this appraisal report. I certify that any individual so named is qualified to perform the tasks. I have not authorized anyone to make a change to any item in this appraisal report; therefore, any change made to this appraisal is unauthorized and I will take no responsibility for it.
19. I identified the client in this appraisal report who is the individual, organization, or agent for the organization that ordered and will receive this appraisal report.
20. I am aware that any disclosure or distribution of this appraisal report by me or the client may be subject to certain laws and regulations. Further, I am also subject to the provisions of the Uniform Standards of Professional Appraisal Practice that pertain to disclosure or distribution by me.

D_000130

21. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

SUPERVISORY APPRAISER'S CERTIFICATION: The Supervisory Appraiser certifies and agrees that:

1. I directly supervised the appraiser for this appraisal assignment, have read the appraisal report, and agree with the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
2. I accept full responsibility for the contents of this appraisal report including, but not limited to, the appraiser's analysis, opinions, statements, conclusions, and the appraiser's certification.
3. The appraiser identified in this appraisal report is either a sub-contractor or an employee of the supervisory appraiser (or the appraisal firm), is qualified to perform this appraisal, and is acceptable to perform this appraisal under the applicable state law.
4. This appraisal report complies with the Uniform Standards of Professional Appraisal Practice that were adopted and promulgated by the Appraisal Standards Board of The Appraisal Foundation and that were in place at the time this appraisal report was prepared.
5. If this appraisal report was transmitted as an "electronic record" containing my "electronic signature," as those terms are defined in applicable federal and/or state laws (excluding audio and video recordings), or a facsimile transmission of this appraisal report containing a copy or representation of my signature, the appraisal report shall be as effective, enforceable and valid as if a paper version of this appraisal report were delivered containing my original hand written signature.

APPRAISER

Signature 
 Name Thomas F. Hartnett, Jr.
 Company Name HARTNETT REALTY COMPANY
 Company Address 134 Meeting Street, Suite 120
Charleston, SC 29401
 Telephone Number 843-723-7222
 Email Address tom@hartnettrealty.com
 Date of Signature and Report March 14, 2012
 Effective Date of Appraisal March 12, 2012
 State Certification # CG5006
 or State License # _____
 or Other (describe) _____ State # _____
 State South Carolina
 Expiration Date of Certification or License 6/30/12

ADDRESS OF PROPERTY APPRAISED

7561 Lady Secret Lane
Awendaw, SC 29429

APPRAISED VALUE OF SUBJECT PROPERTY \$ 230,000

CLIENT

Name _____
 Company Name Mr. Steven P. Levesque
 Company Address 4068 Charleston Green Lane
Mount Pleasant, SC 29466
 Email Address _____

SUPERVISORY APPRAISER (ONLY IF REQUIRED)

Signature _____
 Name _____
 Company Name _____
 Company Address _____
 Telephone Number _____
 Email Address _____
 Date of Signature _____
 State Certification # _____
 or State License # _____
 State _____
 Expiration Date of Certification or License _____

SUBJECT PROPERTY

- ☐ Did not inspect subject property
☐ Did inspect exterior of subject property from street
 Date of Inspection _____
☐ Did inspect interior and exterior of subject property
 Date of Inspection _____

COMPARABLE SALES

- ☐ Did not inspect exterior of comparable sales from street
☐ Did inspect exterior of comparable sales from street
 Date of Inspection _____

D-000131

HARTNETT REALTY COMPANY
MULTI PURPOSE SUPPLEMENTAL ADDENDUM
FOR FEDERALLY RELATED TRANSACTIONS

File No. TEH2012-024
Case No. Levesque

Borrower/Client: Steven P. Levesque
Property Address: 7581 Lady Secret Lane
City: Avondale County: Charleston State: SC Zip Code: 29428
Lender: Mr. Steven P. Levesque Address: 4058 Holford Green Lane, Mount Pleasant, SC 29465

This Multi-Purpose Supplemental Addendum for Federally Related Transactions was designed to provide the appraiser with a convenient way to comply with the current appraisal standards and requirements of the Federal Deposit Insurance Corporation (FDIC), the Office of the Controller of Currency (OCC), the Office of Thrift Supervision (OTS), the Resolution Trust Corporation (RTC), and the Federal Reserve.

The Multi-Purpose Supplemental Addendum is for use with any appraisal. Only those statements which have been checked by the appraiser apply to the property being appraised.

PURPOSE & FUNCTION OF APPRAISAL

The purpose of the appraisal is to estimate the market value of the subject property as defined herein. The function of the appraisal is to assist the above-named Lender in evaluating the subject property for lending purposes. This is a Federally related transaction.

EXTENT OF APPRAISAL PROCESS

- ☐ The appraisal is based on the information gathered by the appraiser from public records, other identified sources (inspection of the subject property and neighborhood, and selection of comparable sales within the subject market area). The original source of the comparable sales is shown in the Data Sources section of the report and along with the source of confirmation, if available. The original source is present, if the source and data are considered reliable. When conflicting information was provided, the source deemed most reliable has been used. Data believed to be unreliable was not included in the report nor used as a basis for the value conclusion.
- ☐ The Reproduction Cost is based on:
- ☐ supplemented by the appraiser's knowledge of the local market.
- ☐ Physical Depreciation is based on the estimated effective age of the subject property. Functional and/or external depreciation, if present, is specifically addressed in the appraisal report or other addenda. In estimating the site value, the appraiser has relied on personal knowledge of the local market. The knowledge is based on prior or current analysis of site sales and/or observations of site values from sales of improved properties.
- ☒ The subject property is located in an area of primarily owner-occupied single-family residences and the Income Approach is not considered to be meaningful. For this reason, the Income Approach was not used.
- ☐ The Estimated Market Rent and Gross Rent Multiplier utilized in the Income Approach are based on the appraiser's knowledge of the subject market area. The rental knowledge is based on prior and/or current rate surveys of residential properties. The Gross Rent Multiplier is based on prior and/or current analysis of properties and market rates for residential properties.
- ☐ For income-producing properties, actual rents, vacancies and expenses have been reported and analyzed. They have been used to project future rents, vacancies and expenses.

SUBJECT PROPERTY OFFERING INFORMATION

- According to Charleston Tri-County Multiple Listing Service the subject property:
- ☒ has not been offered for sale in the past 90 days.
 - ☐ is currently offered for sale for \$_____
 - ☐ was offered for sale within the past 90 days for \$_____
 - ☐ Offering information was considered in the final reconciliation of value.
 - ☐ Offering information was not considered in the final reconciliation of value.
 - ☐ Offering information was not available. The reasons for unavailability and the steps taken by the appraiser are explained later in this addendum.

SALE HISTORY OF SUBJECT PROPERTY

- According to Charleston County Public Records the subject property:
- ☐ has not transferred in the past twelve months.
 - ☒ has transferred in the past twelve months.
 - ☐ has not transferred in the past 36 months.
 - ☐ has transferred in the past 36 months.
- All prior sales which have occurred in the past months are listed below and reconciled to the appraised value, either in the body of the report or in the addenda:

Date	Sales Price	Document #	Seller	Buyer

FEMA FLOOD HAZARD DATA

- ☐ Subject property is not located in a FEMA Special Flood Hazard Area.
 - ☒ Subject property is located in a FEMA Special Flood Hazard Area.
- | Zone | FEMA Map/Panor | Map Date | Name of Community |
|------|----------------|------------|-------------------|
| AE | 45019C-0190J | 11/17/2004 | Charleston County |
- ☐ The community does not participate in the National Flood Insurance Program.
 - ☒ The community does participate in the National Flood Insurance Program.
 - ☒ It is covered by a regular program.
 - ☐ It is covered by an emergency program.

D_000132

HARTNETT REALTY COMPANY

File No. TFM2012-024
Case No. Levasette

[X] CURRENT SALES CONTRACT	
☒ The subject property is currently not under contract. ☐ The contract and prescrow instructions were not available for review. The unavailability of the contract is explained later in the addendum section. ☐ The contract and prescrow instructions were reviewed. The following summarizes the contract: Contract Date: Amendment Date: Contract P/ice: Seller:	
☐ The contract indicated that personal property was not included in the sale. ☐ The contract indicated that personal property was included. It consisted of: _____ Estimated contributory value is \$: _____	
☐ Personal property was not included in the final value estimate. ☐ Personal property was included in the final value estimate. ☐ The contract indicated no financing concessions or other incentives. ☐ The contract indicated the following concessions or incentives: _____	
☐ If concessions or incentives exist, the comparables were checked for similar concessions and appropriate adjustments were made, if applicable, so that the final value conclusion is in compliance with the Market Value Defined herein.	
[X] MARKET OVERVIEW Include a brief explanation of current market conditions and trends.	
<u>30</u> month(s) is considered a reasonable marketing period for the subject property based on: The marketing of similar properties in the subject's direct market area.	
[X] ADDITIONAL CERTIFICATION	
The Appraiser certifies and agrees that: (1) Their analyses, opinions and conclusions were developed and this report was prepared in conformity with the Uniform Standards of Professional Appraisal Practice (USPAP), and in accordance with the regulations developed by the Lender's Federal Regulatory Agency as required by FIRREA, except that the Departmental Provisions of the USPAP do not apply. (2) Their compensation is not contingent upon the reporting of predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event. (3) This appraisal assignment was not based on a requested minimum valuation, a specific valuation, or the approval of a loan.	
[X] ADDITIONAL (ENVIRONMENTAL) LIMITING CONDITIONS	
The value estimated is based on the assumption that the property is not negatively affected by the existence of hazardous substances or detrimental environmental conditions, unless otherwise stated in this report. The appraiser is not an expert in the identification of hazardous substances or detrimental environmental conditions. The appraiser's routine inspection of and inquiries about the subject property did not develop any information that indicated any apparent significant hazardous substances or detrimental environmental conditions which would affect the property negatively unless otherwise stated in this report. It is possible that tests and inspections made by a qualified hazardous substance and environmental expert would reveal the existence of hazardous substances or detrimental environmental conditions on or around the property that would negatively affect its value.	
[X] ADDITIONAL COMMENTS	
The signatures affixed to this appraisal report have been electronically generated and are password protected.	
[X] APPRAISER'S SIGNATURE & LICENSE CERTIFICATION	
Appraiser's Signature: <u>Thomas F. Hartnett, Jr.</u> Effective Date: <u>March 12, 2012</u> Date Prepared: <u>March 14, 2012</u> Appraiser's Name (print): <u>Thomas F. Hartnett, Jr.</u> Phone # (<u>843</u>) <u>723-7222</u> State: <u>SC</u> License: ☐ ☒ Certification # <u>CG 5095</u> Tax ID # <u>67-0771517</u>	
[] CO-SIGNING APPRAISER'S CERTIFICATION	
☐ The co-signing appraiser has personally inspected the subject property, both inside and out, and has made an exterior inspection of all comparable sales listed in the report. The report was prepared by the appraiser under direct supervision of the co-signing appraiser. The co-signing appraiser accepts responsibility for the contents of the report including the value conclusion and the limiting conditions, and confirms that the certifications apply fully to the co-signing appraiser. ☐ The co-signing appraiser has not personally inspected the interior of the subject property and: has not inspected the exterior of the subject property and all comparable sales listed in the report; has inspected the exterior of the subject property and all comparable sales listed in the report; ☐ The report was prepared by the appraiser under direct supervision of the co-signing appraiser. The co-signing appraiser accepts responsibility for the contents of the report, including the value conclusions and the limiting conditions, and confirms that the certifications apply fully to the co-signing appraiser with the exception of the certification regarding physical inspections. The above describes the level of inspection performed by the co-signing appraiser. ☐ The co-signing appraiser's level of inspection, involvement in the appraisal process and certification are covered elsewhere in the addendum section of this appraisal.	
[] CO-SIGNING APPRAISER'S SIGNATURE & LICENSE CERTIFICATION	
Co-Signing: Appraiser's Signature: _____ Effective Date: <u>March 12, 2012</u> Date Prepared: _____ Co-Signing Appraiser's Name (print): _____ Phone # (<u>843</u>) <u>723-7222</u> D 000133 State: <u>SC</u> License: ☐ ☒ Certification # _____ Tax ID # <u>67-0771517</u>	

Rev. 7/04 November 1999

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Page 11 of 11

☒ CURRENT SALES CONTRACT					
☒ The subject property is currently not under contract. ☐ The contract and/or escrow instructions were not available for review. The unavailability of the contract is explained later in the addenda section. ☐ The contract and/or escrow instructions were reviewed. The following summarizes the contract:					
<table border="1"> <tr> <td>Contract Date:</td> <td>Amendment Date:</td> <td>Contract Price:</td> <td>Seller:</td> </tr> </table>		Contract Date:	Amendment Date:	Contract Price:	Seller:
Contract Date:	Amendment Date:	Contract Price:	Seller:		
☐ The contract indicated that personal property was not included in the sale. ☐ The contract indicated that personal property was included. It consisted of _____ Estimated contributory value is \$: _____					
☐ Personal property was not included in the final value estimate. ☐ Personal property was included in the final value estimate. ☐ The contract indicated no financing concessions or other incentives. ☐ The contract indicated the following concessions or incentives: _____					
☐ If concessions or incentives exist, the comparables were checked for similar concessions and appropriate adjustments were made, if applicable, so that the final value conclusion is in compliance with the Market Value defined herein.					
☒ MARKET OVERVIEW include an explanation of current market conditions and trends.					
# of month(s) is considered a reasonable marketing period for the subject property based on _____ similar properties in the subject's direct market area.					
☒ ADDITIONAL CERTIFICATION					
The Appraiser certifies and agrees that: (1) Their analyses, opinions and conclusions were developed, and this report was prepared, in conformity with the Uniform Standards of Professional Appraisal Practice ("USPAP"), and in accordance with the regulations developed by the Lender's Federal Regulatory Agency as required by FURCA, except that the Department Provisions of the USPAP do not apply. (2) Their compensation is not contingent upon the reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value estimate, the attainment of a stipulated result, or the occurrence of a subsequent event. (3) This appraisal assignment was not based on a request of minimum valuation, a specific valuation, or the approval or disapproval.					
☒ ADDITIONAL (ENVIRONMENTAL) LIMITING CONDITIONS					
The value estimated is based on the assumption that the property is not negatively affected by the existence of hazardous substances or detrimental environmental conditions unless otherwise stated in this report. The appraiser is not an expert in the identification of hazardous substances or detrimental environmental conditions. The appraiser's routine inspection of and inquiries about the subject property did not develop any information that indicated any apparent significant hazardous substances or detrimental environmental conditions which would affect the property negatively unless otherwise stated in this report. It is possible that tests and inspections made by a qualified hazardous substance and environmental expert would reveal the existence of hazardous substances or detrimental environmental conditions on or around the property that would negatively affect its value.					
☒ ADDITIONAL COMMENTS					
The signatures affixed to this appraisal report have been electronically generated and are password protected.					
☒ APPRAISER'S SIGNATURE & LICENSE/CERTIFICATION					
Appraiser's Signature: <u>Thomas F. Hartnett, Jr.</u> Effective Date: <u>March 12, 2012</u> Date Prepared: <u>March 14, 2012</u> Appraiser's Name (print): <u>Thomas F. Hartnett, Jr.</u> Phone # (<u>648</u>) <u>723-7222</u> State: <u>SC</u> License: ☐ Certification # <u>CG-5005</u> Tax ID # <u>57-0773517</u>					
☐ CO-SIGNING APPRAISER'S CERTIFICATION					
☐ The co-signing appraiser has personally inspected the subject property, both inside and out, and has made an exterior inspection of all comparable sales listed in the report. If the report was prepared by the appraiser under direct supervision of the co-signing appraiser, the co-signing appraiser accepts responsibility for the contents of the report including the value conclusion and the limiting conditions, and confirms that the certifications apply fully to the co-signing appraiser. ☐ The co-signing appraiser has not personally inspected the interior of the subject property and: ☐ has not inspected the exterior of the subject property and all comparable sales listed in the report. ☐ has inspected the exterior of the subject property and all comparable sales listed in the report. ☐ The report was prepared by the appraiser under direct supervision of the co-signing appraiser. The co-signing appraiser accepts responsibility for the contents of the report, including the value conclusions and the limiting conditions, and confirms that the certifications apply fully to the co-signing appraiser with the exception of the certification regarding physical inspections. The above describes the level of inspection performed by the co-signing appraiser. ☐ The co-signing appraiser's level of inspection, involvement in the appraisal process and certification are covered elsewhere in the addenda section of this appraisal.					
☐ CO-SIGNING APPRAISER'S SIGNATURE & LICENSE/CERTIFICATION					
Co-Signing: Appraiser's Signature: _____ Effective Date: <u>March 12, 2012</u> Date Prepared: _____ Co-Signing Appraiser's Name (print): _____ Phone # (<u>648</u>) <u>723-7222</u> D-000 State: <u>SC</u> License: ☐ Certification # _____ Tax ID # <u>57-0773517</u>					

[**\$215,000.00 principal + interest at 6% compounded annually**]

	<u>Interest</u>	<u>Total Owed</u>
03/10/05 - 03/10/06	\$12,900.00	\$227,900.00
03/10/06 - 03/10/07	\$13,674.00	\$241,574.00
03/10/07 - 03/10/08	\$14,494.44	\$256,068.44
03/10/08 - 03/10/09	\$15,364.10	\$271,432.54
03/10/09 - 03/10/10	\$16,285.95	\$287,718.49
03/10/10 - 03/10/11	\$17,263.11	\$304,981.60
03/10/11 - 03/10/12	\$18,298.90	\$341,579.39
03/10/12 - 03/10/13	\$20,494.76	\$362,074.15
03/10/13 - 01/31/14	\$19,462.72	\$381,536.87



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY CHARLESTON	)	CASE NO. 12-CP-10-3724
J. S. SANDERS COMPANY, LLC,	)	
	)	
Plaintiff,	)	AFFIDAVIT OF ATTORNEY'S FEES
v.	)	
	)	
STEVEN P. LEVESQUE,	)	
	)	
Defendant.	)	
_____	)	

ONE: That he is the attorney for the Plaintiff in the above captioned action, and has performed legal services on behalf of Plaintiff incident to the within captioned action totaling 31.95 hours, exclusive of actual Court and travel time, and has incurred costs totaling \$435.95, all as reflected in the attached Invoices which are incorporated herein by express reference.

TWO: That he was admitted to the South Carolina Bar in 1983 and has been engaged in the general practice of law since that time.

THREE: That he is, and has been a member of the South Carolina Bar Association, Charleston County Bar Association, and the American Bar Association.

FOUR: That he is the attorney for the Plaintiff in these proceedings and that his Affidavit is filed in support of his client's request for attorney's fees and costs.

FIVE: That he is informed and believes that the time spent on this matter, as set forth above, was necessary for the protection of his client.

SIX: That the undersigned's normal hourly rate for handling matters of this nature is \$185.00 per hour.

SEVEN: That the undersigned, in accordance with his time records, which are maintained on a daily basis, states that the time referenced above were necessarily expended by him in the preparation of the prosecution in this case.

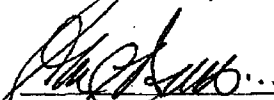


EIGHT: That based on the time necessarily devoted to this case and the other criteria which have been held to be relevant in the setting of attorney's fees, costs and suit money, the undersigned, on behalf of his client, requests that this Court review the file herein, together with his Affidavit, and grant judgment in favor of the undersigned or his client against the Defendant in a sum which may be terminated by the Court to be reasonable as attorney's fees, costs and suit money, and that the Defendant be required to pay the same within a reasonable time that may be determined by this Court.

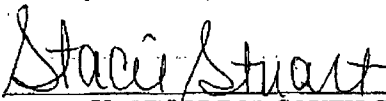
FURTHER THE DEPONENT SAYETH NOT!

CISA & DODDS, LLP

BY:


John J. Dodds, III
858 Lowcountry Blvd., Suite 101
Mt. Pleasant, SC 29464
P: (843)881-6530
F: (843)881-5433
SC Bar No.: 1707
john@cisadodds.com
ATTORNEY FOR PLAINTIFF

SWORN to before me this
30th day of January, 2014.


NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 3-17-2015

STATEMENT

ON ACCOUNT WITH
JOHN J. DODDS, III
CISA & DODDS, LLP
ATTORNEYS & COUNSELORS AT LAW
858 LOWCOUNTRY BOULEVARD, SUITE 101
MT. PLEASANT, SOUTH CAROLINA 29464

February 14, 2013

Via E-Mail sand6106@bellsouth.net

& First Class Mail

Mr. John S. Sanders, III
1071 Fogarty Lane
Wando, SC 29492

***RE: J. S. Sanders Company, LLC v. Steven P. Levesque
Case No. 12-CP-10-3724***

FOR PROFESSIONAL SERVICES RENDERED:

<u>DATE</u>	<u>SERVICES RENDERED</u>	<u>TIME</u>
03/27/12	Phone conference with Johnnie Warren, Esquire; Phone conference with client	.25
03/28/12	Phone conference with client	.15
05/23/12	Preparation of collection pleadings and letter to client	2.00
06/08/12	Conference with Clerk of Court	.25
06/13/12	Certified letter to Steven Levesque	.25
06/18/12	Preparation of Proof of Service by Certified Mail and memo to Clerk	.30
12/26/12	Review Answer, Motion for Summary Judgment, Affidavit in Support of Judgment; Legal Research; Answer Request to Admit, Interrogatories and Request to Produce and letter to Attorney Sharpe	2.50
01/02/13	Phone conference with client	.20
01/04/13	E-mail to client	.20

01/14/13	Phone conference with Attorney Sharpe	.25
01/14/13	Letter to client	.25
01/23/13	Letter to client	.25
01/30/13	Client conference	1.00
02/06/13	Review client materials and preparation Of client's Affidavit	1.50
02/07/13	Phone conference with client; Client conference	.65
02/12/13	Phone conference with Attorney Sharpe; Phone conference with client	.15
02/13/13	Preparation for Motion Hearing; Motion Hearing, Judge Dennis	<u>2.50</u>
TOTAL TIME:		12.65
Attorney's Fee (12.65 @ \$185.00 per hour):		\$2,340.25
PLUS COSTS:		
Filing Fee		\$150.00
Certified Mail/Return Receipt Requested		\$7.50
TOTAL COSTS:		<u>\$157.50</u>
SUBTOTAL:		\$2,497.75
LESS RETAINER FEE:		<u>\$2,500.00</u>
CREDIT IN TRUST ACCOUNT:		\$2.25

STATEMENT

ON ACCOUNT WITH
JOHN J. DODDS, III
CISA & DODDS, LLP
ATTORNEYS & COUNSELORS AT LAW
858 LOWCOUNTRY BOULEVARD, SUITE 101
MT. PLEASANT, SOUTH CAROLINA 29464

May 29, 2013

Via E-Mail sand6106@bellsouth.net

& First Class Mail

J. S. Sanders Company, LLC
c/o Mr. John S. Sanders, III
1071 Fogarty Lane
Wando, SC 29492

***RE: J. S. Sanders Company, LLC v. Steven P. Levesque
Case No. 12-CP-10-3724***

FOR PROFESSIONAL SERVICES RENDERED:

<u>DATE</u>	<u>SERVICES RENDERED</u>	<u>TIME</u>
02/26/13	Phone conference with client	.10
02/27/13	E-mail to Attorney Sharpe	.20
03/22/13	Preparation of Motion for Summary Judgment, Affidavit of Sammy Sanders and e-mail to client and letter to Clerk	1.75
03/26/13	Letter to Clerk	.20
03/28/13	Preparation of Certificate of Hand-Delivery and letter to Attorney Sharpe	.45
04/01/13	Preparation of Certificate of Hand-Delivery and letter to Attorney Sharpe	.35
04/24/13	E-mail to Clerk of Court to schedule Motion Hearing	.25
05/27/13	Preparation for Motion Hearing	1.00
05/28/13	Motion Hearing, Judge Dennis	<u>2.75</u>

TOTAL TIME:	7.05
Attorney's Fee (7.05 @ \$185.00 per hour):	\$1,304.25
PLUS COSTS:	
Motion Fee/Motion for Summary Judgment	\$25.00
TOTAL COSTS:	<u>\$25.00</u>
SUBTOTAL:	\$1,329.25
LESS CREDIT RETAINER FEE:	<u>\$2.25</u>
TOTAL DUE & OWING:	\$1,327.00

STATEMENT

ON ACCOUNT WITH
JOHN J. DODDS, III
CISA & DODDS, LLP
ATTORNEYS & COUNSELORS AT LAW
858 LOWCOUNTRY BOULEVARD, SUITE 101
MT. PLEASANT, SOUTH CAROLINA 29464

January 3, 2014

Via E-Mail sand6106@bellsouth.net

& First Class Mail

J. S. Sanders Company, LLC
c/o Mr. John S. Sanders, III
1071 Fogarty Lane
Wando, SC 29492

*RE: J. S. Sanders Company, LLC v. Steven P. Levesque
Case No. 12-CP-10-3724*

FOR PROFESSIONAL SERVICES RENDERED:

<u>DATE</u>	<u>SERVICES RENDERED</u>	<u>TIME</u>
09/25/13	Preparation of Plaintiff's Supplemental Answers to Defendant's Interrogatories and Plaintiff's Supplemental Answers to Defendant's Request for Production; Preparation of Plaintiff's Interrogatories and Request for Production, Certificate of Mailing and letter to Attorney Sharpe	2.00
11/07/13	E-mail to Clerk of Court requesting continuance	.25
11/08/13	Phone conference with client	.20
11/11/13	Phone conference with client	.20
11/22/13	Phone conference with Mrs. Sanders; Phone conference with Attorney Randy Drew; E-mail from and to client; E-mail to Attorney Mark Sharpe	.35
11/25/13	Conference with Randy Drew, Esquire, Review Defendant's Answers to Discovery Requests	1.00
11/26/13	E-mail to Randy Drew, Esquire	.25

12/02/13	E-mail to Clerk of Court regarding shoulder surgery; Supplemental Discovery responses to Attorney Mark Sharpe and letter to Attorney Sharpe	.75
01/02/14	Phone conference with client; Client conference	<u>.40</u>
TOTAL TIME:		5.40
Attorney's Fee (5.40 @ \$185.00 per hour):		\$999.00
TOTAL DUE & OWING:		\$999.00

STATEMENT

ON ACCOUNT WITH
JOHN J. DODDS, III
CISA & DODDS, LLP
ATTORNEYS & COUNSELORS AT LAW
858 LOWCOUNTRY BOULEVARD, SUITE 101
MT. PLEASANT, SOUTH CAROLINA 29464

January 30, 2014

J. S. Sanders Company, LLC
c/o Mr. John S. Sanders, III
1071 Fogarty Lane
Wando, SC 29492

*RE: J. S. Sanders Company, LLC v. Steven P. Levesque
Case No. 12-CP-10-3724*

FOR PROFESSIONAL SERVICES RENDERED:

<u>DATE</u>	<u>SERVICES RENDERED</u>	<u>TIME</u>
01/09/14	E-mail to client	.20
01/16/14	Client conference	1.00
01/16/14	Preparation for depositions	1.00
01/16/14	Depositions	1.65
01/24/14	Roster sounding; E-mail to client	1.00
01/27/14	Preparation for trial	<u>2.00</u>
TOTAL TIME:		6.85
Attorney's Fee (6.85 @ \$185.00 per hour):		\$1,267.25
PLUS COSTS:		
Court Reporter/Depositions of John S. Sanders and Steven P. Levesque		<u>\$253.45</u>
TOTAL DUE & OWING:		\$1,520.70



A. William Roberts, Jr. & Associates
Court Reporting | Videography | Trial Presentation
234 Seven Farms Drive, Suite 210
Charleston, SC 29492
phone: (843) 722-8414 fax: (843) 722-8451
www.scheduledepo.com

Job #: 140117GMA

Job Date: 01/17/14

Order Date: 01/17/14

DB Ref. #:

Date of Loss: 1/1

Your File #:

Your Client: JS Sanders Company, LLC

Invoice

Invoice #: 202367

Inv. Date: 01/28/14

Balance: \$253.45

Bill To:

John J. Dodds, III, Esq.
Cisa & Dodds
858 Lowcountry Boulevard
Suite 101
Mt. Pleasant, SC 29464

Action: J.S. Sanders Company, LLC

VS

Levesque, Steven P.

Action #: 2012-CP-10-3724

Rep: GMA

Cert: Mary

Item	Proceeding/Witness	Description	Disc. Amt	Amount
1	John Samuel Sanders III	E-Transcript as Copy	\$0.00	\$63.00
2	John Samuel Sanders III	PDF Scanned Exhibits	\$0.00	\$5.75
3	Steven P. Levesque	Original and e-transcript copy	\$0.00	\$130.35
4	Steven P. Levesque	PDF Scanned Exhibits	\$0.00	\$7.00
5	Steven P. Levesque	ASCII-Minuscule PDF-Etran-Cond. w/Index	\$0.00	\$0.00
6	Steven P. Levesque	Reporting Time	\$0.00	\$37.50
7	Steven P. Levesque	Shipping & Handling	\$0.00	\$9.85
Comments:				
				Sub Total \$253.45
				Shipping \$0.00
				Tax N/A
				Total Invoice \$253.45
				Payment \$0.00
				Balance Due \$253.45
Federal Tax I.D.: 57-0762990		Terms: Net 30 Days Finance Charge @ 1.5%		

Please KEEP THIS PART for YOUR RECORDS.

Please FOLD then TEAR HERE and RETURN THIS PART with PAYMENT.

Bill To:

John J. Dodds, III, Esq.
Cisa & Dodds
858 Lowcountry Boulevard
Suite 101
Mt. Pleasant, SC 29464

Deliver To:

John J. Dodds, III, Esq.
Cisa & Dodds
858 Lowcountry Boulevard
Suite 181
Mt. Pleasant, SC 29464

Invoice

Invoice #: 202367

Inv. Date: 01/28/14

Balance: \$253.45

Job #: 140117GMA

Job Date: 01/17/14

DB Ref. #:

Date of Loss: 1/1

Your File #:

Your Client: JS Sanders Company, LLC

REMIT TO:

A. William Roberts, Jr. & Associates
234 Seven Farms Drive, Suite 210
Charleston, SC 29492



STATE OF SOUTH CAROLINA)
) PURCHASE MONEY MORTGAGE
 COUNTY OF CHARLESTON)

THIS PURCHASE MONEY MORTGAGE ("Mortgage") made and entered into the 10th day of March, 2005, by and between Steven P. Levesque, whose address is 4068 Harleston Green Lane, Mount Pleasant, SC 29466 (hereinafter referred to as the "Mortgagor"), and J. S. Sanders Company, L.L.C., a South Carolina limited liability company whose address is 1060 Fogarty Lane, Wando, SC 29492, (hereinafter referred to as the "Mortgagee");

WHEREAS, Mortgagor is indebted to Mortgagee for the unpaid purchase price of the real property subject to this Mortgage and a separate and additional Purchase Money Mortgage as to real property in Charleston County, South Carolina to evidence which, Mortgagor has executed and delivered to Mortgagee a Note of even date herewith, in the principal sum of FOUR HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$450,000.00) payable to the order of Mortgagee at 1060 Fogarty Lane, Wando, SC 29492, or at such other place as the holder hereof may designate in writing, said principal sum being payable as set forth in said Note with interest at the rate set forth therein, to which Note reference is hereby made.

NOW, THEREFORE, Mortgagor in consideration of the aforesaid debt, and for the purpose of securing (1) payment of said indebtedness as in said Note provided, including future advances, and any and all modifications, amendments, renewals and/or extensions thereof, (2) payment of all other moneys secured hereby and (3) the performance of all the covenants, conditions, stipulations and agreements herein contained does by these presents, grant, bargain, sell and release unto the said J. S. Sanders Company, L.L.C., its heirs and assigns, the following described property situated in Charleston County, South Carolina:

SEE EXHIBIT "A" ATTACHED HERETO
 FOR A DESCRIPTION OF THE PROPERTY

TOGETHER, with all rights, privileges, interests, easements, tenements, hereditaments and appurtenances thereto belonging, and the rents, issues and profits thereof, and any and all improvements and fixtures now or subsequently attached to or used in connection with the mortgaged premises.

TO HAVE AND TO HOLD, all and singular the said premises, unto the Mortgagee, its successors and assigns forever.

CERTIFIED TRUE COPY
 CHARLIE LYBRAND
 REGISTER MESNE CONVEYANCE
 CHARLESTON COUNTY, SC
 DATE: 11-19-2013
 BY: Charlie Lybrand
 NP21



BK P 528PG612

AND the Mortgagor covenants with the Mortgagee that the Mortgagor is indefeasibly seized of a good and marketable fee simple title to said land and has good and lawful authority to mortgage said land; that the Mortgagor hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever claiming by, through or under him; and that said land is free and clear of all encumbrances except: (1) Taxes for the year 2005 and subsequent years, constituting a lien, but not yet due and payable, and (2) such other matters as existing at the time of transfer of title from the Mortgagee to the Mortgagor.

PROVIDED, ALWAYS, that if said Mortgagor shall pay unto the said Mortgagee the certain Purchase Money Note of even date herewith made by the Mortgagor in favor of the Mortgagee in the principal amount of FOUR HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$450,000.00), (hereinafter referred to as the "Note") and by its terms expressly secured by this Mortgage; AND if the Mortgagor shall duly, promptly and fully perform, discharge, execute, effect, complete and comply with and abide by each and every of the stipulations, agreements, conditions and covenants of the Note and this Mortgage, then this Mortgage and all assignments contained herein shall cease and be null and void; otherwise to remain in full force and effect.

AND the Mortgagor does hereby expressly covenant and agree:

1. To pay the Note in accordance with its terms promptly as the principal and interest thereon shall become due.
2. To pay all taxes, assessments and public charges already levied or assessed or that may hereafter be levied or assessed upon or against said land and premises or against any personal property herein conveyed, when due and payable according to law, before they become delinquent, and before any interest or penalty shall attach.
3. Not to do or permit waste on said premises without the consent of Mortgagee nor to do or permit any other act whereby the property hereby conveyed shall become less valuable.
4. Should the Mortgagor fail to make payment of any taxes, assessments or public charges before they become delinquent, or before any interest or penalty shall attach, or of any insurance premiums or other charges payable by Mortgagor, then the Mortgagee may make payments of the same. In case of such payments by the Mortgagee, the Mortgagor agrees to reimburse the Mortgagee on demand, and the amounts so paid, with interest thereon at the rate set forth in the Note, which shall be added to and become part of the debt secured by these presents. Such payment by the Mortgagee shall not constitute a waiver of any right arising from a breach of any of the covenants set forth herein. The lien of this Mortgage shall secure the payment of any such sums paid by the Mortgagee to the same extent that it secures payment of the Note.
5. Any sums which shall not be paid when due, whether maturing by lapse of time or by reason of acceleration under the provisions of the Note and whether principal, interest or money owing for advancements by the holder pursuant to the terms of this Mortgage, shall bear interest at the rate set forth in the Note until paid.

6. That in the event that said Note is placed in the hands of an attorney for collection, or in case the Mortgagee has become a party either as plaintiff or as defendant in any suit or legal proceeding in relation to the property described or the lien created herein, or for the recovery or protection of said indebtedness, the Mortgagor will repay on demand all reasonable costs and expenses arising therefrom, with interest at the rate set forth in the Note until paid, all of which sums, if unpaid, shall be added to and become a part of the debt secured by these presents.

7. That the Mortgagee, without notice, and as often as he wishes to, may agree with any party obligated on said indebtedness, or having an interest in the security described herein, to renew or extend the time for payment of any part or all of the indebtedness secured hereby, without in any way affecting either the lien hereof or the liability of any other party.

8. The term event of default, wherever used in this Mortgage, shall mean any one or more of the following events:

(a) Failure by the Mortgagor to pay as and when due and payable, including by acceleration, any installment of principal and/or interest, or failure to pay taxes or insurance before they become delinquent or incur any interest or penalty.

(b) Failure by the Mortgagor to duly observe any other covenant, condition or agreement of the Note or of this Mortgage or any other mortgage given to secure the Note secured hereby or of any other instrument given to secure payment of said Note within thirty (30) days after written notice by Mortgagee to Mortgagor of such failure.

(c) The filing by the Mortgagor of a voluntary petition in bankruptcy or the Mortgagor's adjudication as a bankrupt or insolvent, or the filing by the Mortgagor of any petition or answer seeking or acquiescing in any relief for himself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency, or other relief for debtors, or the Mortgagor's seeking or consenting to or acquiescence in the appointment of any trustee, or receiver of the Mortgagor or of all or any substantial part of the premises or of any or all the rents, revenues, issues, earnings, profits, or income thereof, or the making of any general assignment for the benefit of creditors, or the admission in writing of his inability to pay his debts generally as they become due.

9. If an event of default shall occur and be continuing after the expiration of any applicable notice period, if no cure has been effected, all of the indebtedness secured hereby shall become and be immediately due and payable at the option of the Mortgagee, without further notice or demand, which are hereby expressly waived, and the Mortgagee may proceed to foreclose this Mortgage or otherwise pursue any right or remedy herein or by law provided.

10. It is agreed that nothing herein contained nor any transaction related thereto shall be construed or so operate as to require the Mortgagor to pay interest at a rate greater than it is now lawful in such case to contract for, or to make any payment or to do any act contrary to laws, that if any clauses or provisions herein contained operate or would prospectively operate to invalidate this Mortgage or the Note in whole or in part, then such

clauses and provisions only shall be held for naught, as though not herein contained, and the remainder of this Mortgage shall remain operative and in full force and effect.

11. The Mortgagee shall be entitled to receive and recover the entire award made in any eminent domain proceedings to the extent that the same does not exceed the amount necessary to pay in full all outstanding sums secured by the lien of this Mortgage. Mortgagor shall be entitled to join in any such proceedings and to receive and recover any amount of such award in excess of the amount necessary to pay in full all outstanding sums secured by the lien of this Mortgage.

12. The Mortgagor hereby covenants and agrees that the sale of all or any portion of the real property encumbered hereby, whether voluntarily or by operation of law, shall constitute an event of default under the terms of this Mortgage and entitle the Mortgagee to accelerate all sums due on account of the Note secured hereby.

13. This instrument is to be governed by and construed in accordance with the laws of the State of South Carolina and each of the remedies provided for herein shall be cumulative so that the right of the Mortgagee to exercise one or more of such remedies shall not be construed to limit or preclude the right of the Mortgagee to exercise any other remedy or remedies set forth herein.

14. No delay by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by law, shall operate as a waiver thereof or preclude the exercise thereof during the continuance of any default hereunder.

15. Mortgagor and Mortgagee agree that Mortgagee's recourse of payment of Mortgagor's obligations under the Note secured by this Purchase Money Mortgage are limited to the real property mortgaged under this Mortgage. Under no circumstance shall the Mortgagee or any other person or entity have any other recourse to or claim for payment of such obligations against the Mortgagor except with respect to fraud or willful misconduct.

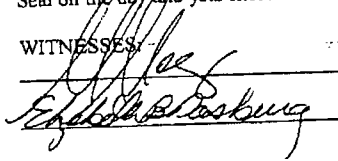
16. The covenants herein contained shall bind, and the benefits and advantages shall inure to the respective heirs, executors, administrators, successors and assigns of the parties hereto. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

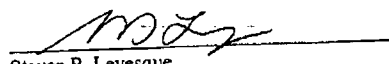
[The remainder of this page left intentionally blank.]

17. WAIVER OF APPRAISAL RIGHTS. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty (30) days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. Pursuant to Section 29-3-680 of the Code of Laws of South Carolina, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY. The Mortgagor specifically acknowledges and affirms his waiver of appraisal rights as evidenced by his signature below.

IN WITNESS WHEREOF, the Mortgagor hereto has hereunto set his Hand and Seal on the day and year first hereinabove written.

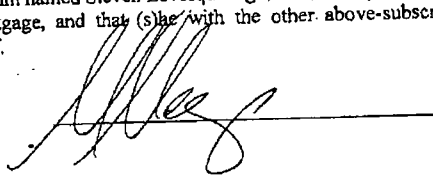
WITNESSES:


Elizabeth A. Levesque


Steven P. Levesque

STATE OF SOUTH CAROLINA)
COUNTY OF Charleston)

PERSONALLY appeared before me the undersigned witness who, being duly sworn, deposes and says that (s)he saw the within named Steven Levesque sign, seal, and by his act and deed, deliver the within written Mortgage, and that (s)he with the other above-subscribed witness witnessed the execution thereof.



SWORN to before me this
10 day of March, 2005.

Elizabeth S. [Signature] (L.S.)
Notary Public for South Carolina
My Commission Expires: 7-13-08

EXHIBIT "A"

ALL that certain lot, piece, or parcel of land, situate, lying and being in the Town of Awendaw, County of Charleston, State of South Carolina, shown and designated as Lot D-6 on that certain plat entitled "SUBDIVISION PLAT FOR TMS 681-00-00-001 JOHN S. SANDERS, JR., LOCATED IN THE TOWN OF AWENDAW CHARLESTON COUNTY, SOUTH CAROLINA", prepared by Ashley Engineering & Consulting, Inc., dated January 2004, and recorded March 9, 2004, in Plat Book EG at page 944 (the "Plat"), in the RMC Office for Charleston County, South Carolina (the "RMC Office"), said lot having such size, shape, dimensions, buttings and boundings as will by reference to said plat more fully and at large appear.

TOGETHER WITH a non-exclusive, perpetual, permanent, transferable, commercial easement appurtenant for access, ingress and egress, and utilities from Doar Road to Lot D-6 over that portion of property now or formerly of John S. Sanders, Jr., and Buchanan Tract, LLC, designated as "Approximate CL of Existing (Dirt) Unimproved Road New 50' Ingress/Egress & General Utility Easement" as more fully set forth on the Plat, which is to run with the land for the use and benefit of the owners of Lot D-6, their heirs, successors and assigns.

This being the same property conveyed to Steven P. Levesque by deed of J.S. Sanders Company, L.L.C., dated March 4, 2005, and recorded simultaneously herewith.

TMS Number: 681-00-00-038

BK P 528PG618

WARREN & SINKLER, L.L.P.
P.O. BOX 1254
CHARLESTON, SC 29402

FILED

PS28-611

2005 MAR 11 AM 11:47

CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

13.10
A

) IN THE COURT OF COMMON PLEAS
) CASE NUMBER 12-CP-10-3724

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allegations in this case, which he intends to offer into evidence, which he intends to use as impeachment evidence, and/or which he intends to use as an exhibit at the time of trial.

6. If Plaintiff denied any of Plaintiff's First Requests for Admission, state with specificity the basis for each such denial.

7. State whether Plaintiff disputes the contention that paragraph 15 of the mortgage, if given effect, would prohibit Plaintiff from obtaining a personal judgment against Defendant.

8. If Plaintiff contends that that paragraph 15 of the mortgage, if given effect, would not prohibit Plaintiff from obtaining a personal judgment against Defendant, state the basis for this contention and identify any documents, instruments and other writings which supports this contention.

9. State whether you contend that the provisions of paragraph 15 of the mortgage should not be given effect.

10. If you contend that the provisions of paragraph 15 of the mortgage should not be given effect, state the basis for your contention and identify any documents, instruments and other writings which support your contention.

11. State whether Plaintiff accepted a promissory note in full or partial payment for the sale of any lot (other than the lot purchased by Defendant) in the development in which the lot purchased by Defendant is located.

12. If you answer to the preceding interrogatory was yes, identify all such lots and the purchasers thereof.

13. If Plaintiff's answer to interrogatory 11 was yes, state whether any of those notes, or any mortgage securing any of those notes, had non-recourse or other provisions limiting Plaintiff's right to a personal or deficiency judgment with respect to such promissory notes.

14. If you answer to the preceding interrogatory is yes, list and identify with specificity each such note or mortgage.

15. Set forth the name and address of each witness who will testify that the promissory note that is the subject of this action was not intended to be a non-recourse promissory note.

16. Set forth the name and address of each other witness who has knowledge of whether the promissory note that is the subject of this action was intended to be a non-recourse promissory note.

17. Identify with specificity all documents, instruments, emails, and other writings which support Plaintiff's contention that the promissory note that is the subject of this action was not intended to be a non-recourse promissory note.

18. Identify with specificity all documents, instruments, emails, and other writings that address or relate to whether the promissory note that is the subject of this action was intended to be a non-recourse promissory note.

19. State whether Plaintiff has been a party to any other litigation relating to the sale of lots in the development in which the lot purchased by Defendant is located.

20. If you answer to the preceding interrogatory is yes, state the name, case number, and disposition of such other litigation.

Mark S. Sharpe
Ashley Dantzler Wright
WARREN & SINKLER, LLP
P. O. Box 1254
Charleston, South Carolina 29402
Telephone: (843) 577-0660
Facsimile: (843) 577-6843
msharpe@warren-sinkler.com
awright@warren-sinkler.com

ATTORNEYS FOR PLAINTIFF

Charleston, South Carolina

November 1, 2012

STATE OF SOUTH CAROLINA

COUNTY CHARLESTON

J. S. SANDERS COMPANY, LLC,

Plaintiff,

v.

STEVEN P. LEVESQUE,

Defendant.

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
) CASE NO. 12-CP-10-3724

)
)
) **PLAINTIFF'S ANSWERS TO**
) **DEFENDANT'S FIRST SET OF**
) **INTERROGATORIES TO PLAINTIFF**
)
)
)

The Plaintiff, above named, by and through its undersigned legal counsel, answering Defendant's First Set of Interrogatories to Plaintiff as follows:

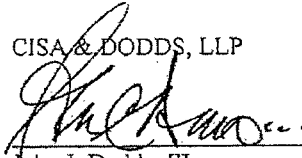
1. John S. Sanders, III
1071 Fogarty Lane
Wando, SC 29492

No written or recorded statement has been taken from this witness.

2. See answers to Defendant's First Request for Production.
3. None at this time.
4. John S. Sanders, III is expected to testify regarding the Purchase Money Promissory Note and Purchase Money Mortgage dated March 10, 2005 in the original sum of \$215,000.00, Deed from J.S. Sanders Company, LLC to Steven P. Levesque, payments made by Defendant, if any, in accordance with such Note and Mortgage, balance owed from Defendant to Plaintiff in accordance with such Note and Mortgage, as well as any attorney's fees and costs incurred by Plaintiff.
5. See Purchase Money Promissory Note and Purchase Money Mortgage attached to Plaintiff's Answers to Defendant's First Request for Production.
6. Plaintiff asserts that it may pursue a personal judgment against Defendant notwithstanding the non-recourse provision set forth in the mortgage.
7. Plaintiff disputes that Paragraph 15 of the Mortgage, if given effect, would prohibit Plaintiff from obtaining a personal judgment against Defendant.
8. Plaintiff asserts that the absence of the non-recourse provision in the Promissory Note allows Plaintiff to see a personal judgment against Defendant.

9. Plaintiff assert the provisions of Paragraph 15 of the Mortgage should not be given effect since no such provision is contained in the Promissory Note.
10. See Purchase Money Promissory Note attached to Plaintiff's Answers to Defendant's First Request for Production.
11. Plaintiff accepted a Promissory Note in the amount of \$215,000.00 as partial payment of the purchase price of \$250,000.00 to purchase the lot set forth in the mortgage.
12. Lot 10, Bridle Gate at Bull's Bay Landing, Phase I, Awendaw, SC.
13. Defendant also purchased Lot D-6, Awendaw, SC from Defendant. The Purchase Money Mortgage executed by Defendant in favor of Plaintiff as to this lot contained a non-recourse provision.
14. Purchase Money Mortgage from Defendant to Plaintiff dated March 10, 2005 regarding Lot D-6, Awendaw, SC.
15. John S. Sanders, III
16. John S. Sanders, III
17. Purchase Money Promissory Note dated March 10, 2005 in the original sum of \$215,000.00.
18. See Purchase Money Promissory Note dated March 10, 2005 in the original sum of \$215,000.00.
19. Plaintiff has not been a party to any other litigation relating to the sale of lots in the development in which the lot purchased by Defendant is located.
20. Not applicable

CISA & DODDS, LLP

By: 

John J. Dodds, III
858 Lowcountry Blvd., Suite 101
Mt. Pleasant, SC 29464
P: (843)881-6530
F: (843)881-5433
SC Bar No.: 1707
john@cisadodds.com

ATTORNEY FOR PLAINTIFF

Mt. Pleasant, SC

December 27, 2012

IN THE COURT OF COMMON PLEAS
CASE NUMBER 12-CP-10-3724

—

—

**Defendant's Memorandum in Support of
Motion for Summary Judgment**

John J. Dodds III, Esq.
Cisa & Dodds, LLP
858 Lowcountry Boulevard, Suite 101
Mount Pleasant, SC 29401

168

) IN THE COURT OF COMMON PLEAS
) CASE NUMBER 12-CP-10-3724

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8. Plaintiff knew at the time of the purchase and sale of the lot that Defendant would execute and deliver both the promissory note that is the subject of this action and a mortgage on the lot securing the promissory note.

9. The copy of the mortgage attached as Exhibit A to this Request is a true and correct copy of the mortgage executed and delivered by Defendant in connection with Defendant's purchaser of the lot.

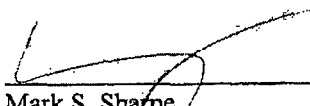
10. The mortgage contains the following provision:

15. Mortgagor and Mortgagee agree that Mortgagee's recourse of payment of Mortgagor's obligations under the Note secured by this Purchase Money Mortgage are limited to the real property mortgaged under this Mortgage. Under no circumstances shall the Mortgagee or any other person or entity have any recourse to or claim for payment of such obligations against the Mortgagor except with respect to fraud or willful misconduct.

11. The language in paragraph 15 of the mortgage, quoted in the preceding request for admission, would, if given effect, preclude Plaintiff from obtaining a personal judgment against Defendant.

12. Plaintiff has not alleged that Defendant has committed fraud or misconduct.

13. The promissory note that is the subject of this action was intended to be non-recourse such that Plaintiff would not be entitled to a personal judgment against Defendant.



Mark S. Sharpe
Ashley Dantzler Wright
WARREN & SINKLER, LLP
P. O. Box 1254
Charleston, South Carolina 29402
Telephone: (843) 577-0660
Facsimile: (843) 577-6843
msharpe@warren-sinkler.com
awright@warren-sinkler.com

ATTORNEYS FOR PLAINTIFF

Charleston, South Carolina
November 1, 2012

Exhibit A

STATE OF SOUTH CAROLINA)
) **PURCHASE MONEY MORTGAGE**
 COUNTY OF CHARLESTON)

THIS PURCHASE MONEY MORTGAGE ("Mortgage") made and entered into the 10th day of March, 2005, by and between Steven P. Levesque, whose address is 4068 Harleston Green Lane, Mount Pleasant, SC 29466 (hereinafter referred to as the "Mortgagor"), and J. S. Sanders Company, L.L.C., whose address is 1060 Fogarty Lane, Wando, SC 29492, (hereinafter referred to as the "Mortgagee");

WHEREAS, Mortgagor is indebted to Mortgagee for the unpaid purchase price of the real property subject to this Mortgage and a separate and additional Purchase Money Mortgage as to real property in Charleston County, South Carolina to evidence which, Mortgagor has executed and delivered to Mortgagee a Note of even date herewith, in the principal sum of TWO HUNDRED FIFTEEN THOUSAND AND 00/100 DOLLARS (\$215,000.00) payable to the order of Mortgagee at 1060 Fogarty Lane, Wando, SC 29492, or at such other place as the holder hereof may designate in writing, said principal sum being payable as set forth in said Note with interest at the rate set forth therein, to which Note reference is hereby made.

NOW, THEREFORE, Mortgagor in consideration of the aforesaid debt, and for the purpose of securing (1) payment of said indebtedness as in said Note provided, including future advances, and any and all modifications, amendments, renewals and/or extensions thereof, (2) payment of all other moneys secured hereby and (3) the performance of all the covenants, conditions, stipulations and agreements herein contained does by these presents, grant, bargain, sell and release unto the said J. S. Sanders Company, L.L.C., its successors and assigns, the following described property situated in Charleston County, South Carolina:

**SEE EXHIBIT "A" ATTACHED HERETO
 FOR A DESCRIPTION OF THE PROPERTY**

TOGETHER, with all rights, privileges, interests, easements, tenements, hereditaments and appurtenances thereto belonging, and the rents, issues and profits thereof, and any and all improvements and fixtures now or subsequently attached to or used in connection with the mortgaged premises.

TO HAVE AND TO HOLD, all and singular the said premises, unto the Mortgagee, its successors and assigns forever.

AND the Mortgagor covenants with the Mortgagee that the Mortgagor is indefeasibly seized of a good and marketable fee simple title to said land and has good and lawful authority to mortgage said land; that the Mortgagor hereby warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever claiming by, through or under him; and that said land is free and clear of all encumbrances except: (1) Taxes for the year 2005 and subsequent years, constituting a lien, but not yet due and payable, and (2) such other matters as existing at the time of transfer of title from the Mortgagee to the Mortgagor.

PROVIDED, ALWAYS, that if said Mortgagor shall pay unto the said Mortgagee the certain Purchase Money Note of even date herewith made by the Mortgagor in favor of the Mortgagee in the principal amount of TWO HUNDRED FIFTEEN THOUSAND AND 00/100 DOLLARS (\$215,000.00), (hereinafter referred to as the "Note") and by its terms expressly secured by this Mortgage; AND if the Mortgagor shall duly, promptly and fully perform, discharge, execute, effect, complete and comply with and abide by each and every of the stipulations, agreements, conditions and covenants of the Note and this Mortgage, then this Mortgage and all assignments contained herein shall cease and be null and void; otherwise to remain in full force and effect.

AND the Mortgagor does hereby expressly covenant and agree:

1. To pay the Note in accordance with its terms promptly as the principal and interest thereon shall become due.
2. To pay all taxes, assessments and public charges already levied or assessed or that may hereafter be levied or assessed upon or against said land and premises or against any personal property herein conveyed, when due and payable according to law, before they become delinquent, and before any interest or penalty shall attach.
3. Not to do or permit waste on said premises without the consent of Mortgagee nor to do or permit any other act whereby the property hereby conveyed shall become less valuable.
4. Should the Mortgagor fail to make payment of any taxes, assessments or public charges before they become delinquent, or before any interest or penalty shall attach, or of any insurance premiums or other charges payable by Mortgagor, then the Mortgagee may make payments of the same. In case of such payments by the Mortgagee, the Mortgagor agrees to reimburse the Mortgagee on demand, and the amounts so paid, with interest thereon at the rate set forth in the Note, which shall be added to and become part of the debt secured by these presents. Such payment by the Mortgagee shall not constitute a waiver of any right arising from a breach of any of the covenants set forth herein. The lien of this Mortgage shall secure the payment of any such sums paid by the Mortgagee to the same extent that it secures payment of the Note.
5. Any sums which shall not be paid when due, whether maturing by lapse of time or by reason of acceleration under the provisions of the Note and whether principal, interest or money owing for advancements by the holder pursuant to the terms of this Mortgage, shall bear interest at the rate set forth in the Note until paid.
6. That in the event that said Note is placed in the hands of an attorney for collection, or in case the Mortgagee has become a party either as plaintiff or as defendant in any suit or legal proceeding in relation to the property described or the lien created herein, or for the recovery or protection of said indebtedness, the Mortgagor will repay on demand all reasonable costs and expenses arising therefrom, with interest at the rate set forth in the Note until paid, all of which sums, if unpaid, shall be added to and become a part of the debt secured by these presents.

7. That the Mortgagee, without notice, and as often as he wishes to, may agree with any party obligated on said indebtedness, or having an interest in the security described herein, to renew or extend the time for payment of any part or all of the indebtedness secured hereby, without in any way affecting either the lien hereof or the liability of any other party.

8. The term event of default, wherever used in this Mortgage, shall mean any one or more of the following events:

(a) Failure by the Mortgagor to pay as and when due and payable, including by acceleration, any installment of principal and/or interest, or failure to pay taxes or insurance before they become delinquent or incur any interest or penalty.

(b) Failure by the Mortgagor to duly observe any other covenant, condition or agreement of the Note or of this Mortgage or any other mortgage given to secure the Note secured hereby or of any other instrument given to secure payment of said Note within thirty (30) days after written notice by Mortgagee to Mortgagor of such failure.

(c) The filing by the Mortgagor of a voluntary petition in bankruptcy or the Mortgagor's adjudication as a bankrupt or insolvent, or the filing by the Mortgagor of any petition or answer seeking or acquiescing in any relief for himself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency, or other relief for debtors, or the Mortgagor's seeking or consenting to or acquiescence in the appointment of any trustee, or receiver of the Mortgagor or of all or any substantial part of the premises or of any or all the rents, revenues, issues, earnings, profits, or income thereof, or the making of any general assignment for the benefit of creditors, or the admission in writing of his inability to pay his debts generally as they become due.

9. If an event of default shall occur and be continuing after the expiration of any applicable notice period, if no cure has been effected, all of the indebtedness secured hereby shall become and be immediately due and payable at the option of the Mortgagee, without further notice or demand, which are hereby expressly waived, and the Mortgagee may proceed to foreclose this Mortgage or otherwise pursue any right or remedy herein or by law provided.

10. It is agreed that nothing herein contained nor any transaction related thereto shall be construed or so operate as to require the Mortgagor to pay interest at a rate greater than it is now lawful in such case to contract for, or to make any payment or to do any act contrary to laws, that if any clauses or provisions herein contained operate or would prospectively operate to invalidate this Mortgage or the Note in whole or in part, then such clauses and provisions only shall be held for naught, as though not herein contained, and the remainder of this Mortgage shall remain operative and in full force and effect.

11. The Mortgagee shall be entitled to receive and recover the entire award made in any eminent domain proceedings to the extent that the same does not exceed the amount necessary to pay in full all outstanding sums secured by the lien of this Mortgage. Mortgagor shall be entitled to join in any such proceedings and to receive and recover any amount of such award in excess of the amount necessary to pay in full all outstanding sums

secured by the lien of this Mortgage.

12. The Mortgagor hereby covenants and agrees that the sale of all or any portion of the real property encumbered hereby, whether voluntarily or by operation of law, shall constitute an event of default under the terms of this Mortgage and entitle the Mortgagee to accelerate all sums due on account of the Note secured hereby.

13. This instrument is to be governed by and construed in accordance with the laws of the State of South Carolina and each of the remedies provided for herein shall be cumulative so that the right of the Mortgagee to exercise one or more of such remedies shall not be construed to limit or preclude the right of the Mortgagee to exercise any other remedy or remedies set forth herein.

14. No delay by Mortgagee in exercising any right or remedy hereunder, or otherwise afforded by law, shall operate as a waiver thereof or preclude the exercise thereof during the continuance of any default hereunder.

15. Mortgagor and Mortgagee agree that Mortgagee's recourse of payment of Mortgagor's obligations under the Note secured by this Purchase Money Mortgage are limited to the real property mortgaged under this Mortgage. Under no circumstance shall the Mortgagee or any other person or entity have any other recourse to or claim for payment of such obligations against the Mortgagor except with respect to fraud or willful misconduct.

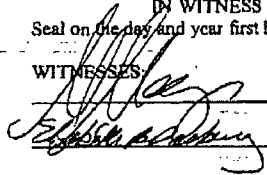
16. The covenants herein contained shall bind, and the benefits and advantages shall inure to the respective heirs, executors, administrators, successors and assigns of the parties hereto. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

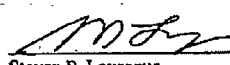
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17. WAIVER OF APPRAISAL RIGHTS. The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within thirty (30) days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. Pursuant to Section 29-3-680 of the Code of Laws of South Carolina, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY. The Mortgagor specifically acknowledges and affirms his waiver of appraisal rights as evidenced by his signature below.

IN WITNESS WHEREOF, the Mortgagor hereto has hereunto set his Hand and Seal on the day and year first hereinabove written.

WITNESSES:

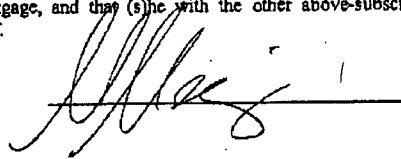



Steven P. Levesque

BN P 528PG624

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

PERSONALLY appeared before me the undersigned witness who, being duly sworn, deposes and says that (s)he saw the within named Steven Levesque sign, seal, and by his act and deed, deliver the within written Mortgage, and that (s)he with the other above-subscribed witness witnessed the execution thereof.



SWORN to before me this
10 day of March, 2005.

Shabba A. Dushung (L.S.)
Notary Public for South Carolina
My Commission Expires: 7-13-08

EXHIBIT "A"

ALL that certain lot, piece, or parcel of land situate, lying and being in the Town of Awendaw, County of Charleston, State of South Carolina, shown and designated as Lot 10, Bridle Gate (Bridal Gate), as that certain plat by Ashley Engineering & Consulting, Inc., dated October 2, 2001, and recorded in the RMC Office for Charleston County, S.C. (the "RMC Office") on October 16, 2001, in Book EF at page 124 (the "Plat"), said lot having such size, shape, dimensions, buttings and boundings as will by reference to said plat more fully and at large appear.

TOGETHER WITH a non-exclusive, perpetual, permanent, transferable, commercial easement appurtenant for access, ingress and egress, and utilities from U.S. Highway 17N to and adjoining Lot 10, over those properties now or formerly of Kay P. Curry shown as Lot 2, Lot 3, Lot 4, and Lot 5, and designated as "Bridle Gate Trail 100' Private Ingress/Egress Easement", "Seattle Slew Lane 50' Private Ingress/Egress Easement (25' E.S.)", and "Lady's Secret Lane 50' Private Ingress/Egress Easement", all as shown on that certain plat by Ashley Engineering & Consulting, Inc., dated December 1, 2003, and recorded March 11, 2004, in Plat Book EG at page 947 (the "Easement Plat") in the RMC Office which is to run with the land for the use and benefit of the owners of Lot 10, their heirs, successors and assigns.

This is the same property conveyed by J.S. Sanders Company, L.L.C., to Steven P. Levesque by deed dated March 4, 2005, and recorded simultaneously herewith.

TMS Number: 700-00-00-201

OK P 528PG626

WARREN & SINKLER, L.L.P.
P.O. BOX 1254
CHARLESTON, SC 29402

FILED

PS28-619

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CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

13 W
A

STATE OF SOUTH CAROLINA)
)
COUNTY CHARLESTON)

J. S. SANDERS COMPANY, LLC,)
)
Plaintiff,)
v.)
)
STEVEN P. LEVESQUE,)
)
Defendant.)
_____)

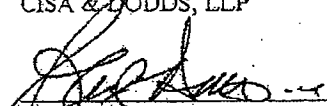
IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO. 12-CP-10-3724

PLAINTIFF'S ANSWERS TO
DEFENDANT'S FIRST REQUEST
FOR ADMISSIONS TO PLAINTIFF

The Plaintiff, above named, by and through its undersigned legal counsel, answers Defendant's
First Request for Admissions to Plaintiff as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted.
9. Admitted.
10. Admitted.
11. Denied.
12. Admitted.
13. Denied.

CISA & DODDS, LLP

By: 

John F. Dodds, III
858 Lowcountry Blvd., Suite 101
Mt. Pleasant, SC 29464
P: (843)881-6530
F: (843)881-5433
SC Bar No.: 1707
john@cisadodds.com
ATTORNEY FOR PLAINTIFF

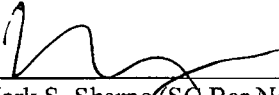
Mt. Pleasant, SC

December 27, 2012

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

June 19, 2015



Mark S. Sharpe (SC Bar No. 5033)
K&L Gates, LLP
134 Meeting Street
Suite 200
Charleston, SC 29401
(843) 579-5647
Attorney for Appellant

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SC Court of Appeals